DOCUMENT RESUME

ED 165 925 RC 011 062

TITLE	Indian Basic Education Act. Hearings Before the Subcommittee on Elementary, Secondary and Vocational Education of the Committee on Education and Labor, House of Representatives, 95th Congress, 2nd Session on H.R. 9810--To Amend Public Law 874, Eighty-First Congress, to Provide for the Basic Education of Indian Children, to Provide Improvements in the Delivery of Other Educational Services for Indians, and for Other Purposes (February 7, 8, and 9, 1978).
INSTITUTION	Congress of the U.S., Washington, D.C. House Committee on Education and Labor.
PUB DATE	Feb 78
NOTE	425p.; Not available in hard copy due to small print size of original document
EDRS PRICE	MF-$0.83 Plus Postage. HC Not Available from EDRS.
DESCRIPTORS	*Access to Education; Agency Role; American Indians; Educational Finance; *Educational Legislation; Elementary Secondary Education; *Evaluation; Federal Legislation; Federal Programs; Government Role; Government School Relationship; *Hearings; Interviews; *Self Determination; Treaties; Tribes; Vocational Education
IDENTIFIERS	*American Indian Education; Bureau of Indian Affairs; Federal Indian Relationship; *Indian Basic Education Act

ABSTRACT

On February 7, 8, and 9, 1978, the subcommittee held hearings to obtain input from official representatives of Indian tribal governments and the Bureau of Indian Affairs (BIA) regarding H.R. 9810 which is intended to amend certain sections of Public Law 874 in order "to provide for the basic education of Indian children, to provide improvements in the delivery of other educational services for Indians, and for other purposes". The subcommittee considered the testimony to be an expression of Indian self-determination. Most witnesses were in general agreement with the intent of the bill but proposed further amendment or changes. The BIA could not endorse enactment of the bill as presently written because it would not contribute to the effective delivery of education services to Indian children. Among those testifying were representatives from ten different Indian groups: Tribal Councils of the Winnebago, Yakima, Warm Springs, Sisseton-Wahpeton Sioux, Papago, and Navajo; All Indian Pueblo Council; Flathead Reservation; Seneca Nation; and Minnesota Chippewa. The hearing proceedings include the text of the bill. Some tables and schematics illustrate the narrative. (SB)

****
* Reproductions supplied by EDRS are the best that can be made *
* from the original document. *
****

rec 11-9-78 RC

ED165925

INDIAN BASIC EDUCATION ACT

HEARINGS

BEFORE THE

SUBCOMMITTEE ON ELEMENTARY, SECONDARY AND VOCATIONAL EDUCATION

OF THE

COMMITTEE ON EDUCATION AND LABOR

HOUSE OF REPRESENTATIVES

NINETY-FIFTH CONGRESS

SECOND SESSION

ON

H.R. 9810

TO AMEND PUBLIC LAW 874, EIGHTY-FIRST CONGRESS, TO PROVIDE FOR THE BASIC EDUCATION OF INDIAN CHILDREN, TO PROVIDE IMPROVEMENTS IN THE DELIVERY OF OTHER EDUCATIONAL SERVICES FOR INDIANS, AND FOR OTHER PURPOSES

HEARINGS HELD IN WASHINGTON, D.C.

FEBRUARY 7, 8, AND 9, 1978

Printed for the use of the Committee on Education and Labor

CARL D. PERKINS, *Chairman*

U S DEPARTMENT OF HEALTH
EDUCATION & WELFARE
NATIONAL INSTITUTE OF
EDUCATION

THIS DOCUMENT HAS BEEN REPRODUCED EXACTLY AS RECEIVED FROM THE PERSON OR ORGANIZATION ORIGINATING IT. POINTS OF VIEW OR OPINIONS STATED DO NOT NECESSARILY REPRESENT OFFICIAL NATIONAL INSTITUTE OF EDUCATION POSITION OR POLICY

RC 011062

2

INDIAN BASIC EDUCATION ACT

HEARINGS

BEFORE THE

SUBCOMMITTEE ON ELEMENTARY, SECONDARY AND VOCATIONAL EDUCATION

OF THE

COMMITTEE ON EDUCATION AND LABOR
HOUSE OF REPRESENTATIVES

NINETY-FIFTH CONGRESS

SECOND SESSION

ON

H.R. 9810

TO AMEND PUBLIC LAW 874, EIGHTY-FIRST CONGRESS, TO PROVIDE FOR THE BASIC EDUCATION OF INDIAN CHILDREN, TO PROVIDE IMPROVEMENTS IN THE DELIVERY OF OTHER EDUCATIONAL SERVICES FOR INDIANS, AND FOR OTHER PURPOSES

HEARINGS HELD IN WASHINGTON, D.C.
FEBRUARY 7, 8, AND 9, 1978

Printed for the use of the Committee on Education and Labor
CARL D. PERKINS, *Chairman*

U.S. GOVERNMENT PRINTING OFFICE
26-591 O WASHINGTON : 1978

COMMITTEE ON EDUCATION AND LABOR

CARL D. PERKINS, Kentucky, *Chairman*

FRANK THOMPSON, JR., New Jersey
JOHN H. DENT, Pennsylvania
JOHN BRADEMAS, Indiana
AUGUSTUS F. HAWKINS, California
WILLIAM D. FORD, Michigan
PHILLIP BURTON, California
JOSEPH M. GAYDOS, Pennsylvania
WILLIAM "BILL" CLAY, Missouri
MARIO BIAGGI, New York
IKE ANDREWS, North Carolina
MICHAEL T. BLOUIN, Iowa
ROBERT J. CORNELL, Wisconsin
PAUL SIMON, Illinois
EDWARD P. BEARD, Rhode Island
LEO C. ZEFERETTI, New York
GEORGE MILLER, California
RONALD M. MOTTL, Ohio
MICHAEL O. MYERS, Pennsylvania
AUSTIN J. MURPHY, Pennsylvania
JOSEPH A. LE FANTE, New Jersey
TED WEISS, New York
CEC HEFTEL, Hawaii
BALTASAR CORRADA, Puerto Rico
DALE E. KILDEE, Michigan

ALBERT H. QUIE, Minnesota
JOHN M. ASHBROOK, Ohio
JOHN N. ERLENBORN, Illinois
RONALD A. SARASIN, Connecticut
JAMES M. JEFFORDS, Vermont
JOHN BUCHANAN, Alabama
LARRY PRESSLER, South Dakota
WILLIAM F. GOODLING, Pennsylvania
BUD SHUSTER, Pennsylvania
SHIRLEY N. PETTIS, California
CARL D. PURSELL, Michigan
MICKEY EDWARDS, Oklahoma

SUBCOMMITTEE ON ELEMENTARY, SECONDARY, AND VOCATIONAL EDUCATION

CARL D. PERKINS, Kentucky, *Chairman*

WILLIAM D. FORD, Michigan
IKE ANDREWS, North Carolina
MICHAEL T. BLOUIN, Iowa
PAUL SIMON, Illinois
LEO C. ZEFERETTI, New York
RONALD M. MOTTL, Ohio
AUSTIN J. MURPHY, Pennsylvania
JOSEPH A. LE FANTE, New Jersey
TED WEISS, New York
CEC HEFTEL, Hawaii
BALTASAR CORRADA, Puerto Rico
DALE E. KILDEE, Michigan
GEORGE MILLER, California

ALBERT H. QUIE, Minnesota
JOHN BUCHANAN, Alabama
LARRY PRESSLER, South Dakota
WILLIAM F. GOODLING, Pennsylvania
SHIRLEY N. PETTIS, California
CARL D. PURSELL, Michigan

NOTE: Some pages may not reproduce because of the smallness of their print.

CONTENTS

Hearings held in Washington, D.C.: Page

Fegruary 7, 1978 ... 1
February 8, 1978 ... 115
February 9, 1978 ... 225
Text of H.R. 9810 ... 2

Statement of—

Clements, Warren R., municipal manager, representing Chairman Eugene Green, Warm Springs Tribal Council, Oreg ... 43
Cooper, Sister Kateri, director, Division of Education, Papago Tribal Council, Arizona, accompanied by Tully Norris, superintendent, Indian Oasis Public School District 40; Archie Hendricks, vice chairman, Papago Education Committee; Dr. Wayne Prett, education consultant, Division of Education; and Clifford Pablo, school board member ... 123
LaFromboise, Susan, chairperson, Reservation Education Board, Sisseton-Wahpeton Sioux Tribal Council, South Dakota, accompanied by Nancy J. Smith, project director J.O.M ... 205
Lavis, Rick, Deputy Assistant Secretary, Indian Affairs, accompanied by Jose A. Zuni, director, Office of Administration; William Ott, assistant director, Management Services; Joseph Gorrell, assistant director, Financial Management; William Demmert, director, Office of Indian Education Programs; and Louis D. Bayhylle, director, Personnel Services, Department of the Interior ... 268
Lovato, Delfin, president, All Indian Pueblo Council, New Mexico, accompanied by Gov. Edison Laselute, Zuni Pueblo; Gov. Juan Valencia, San Felipe Pueblo; Lt. Gov. William Estevan, Acoma Pueblo; and Lt. Gov. Joe Ansara, San Felipe Pueblo ... 192
McDonald, Joseph, tribal councilman, Confederated Salish and Kootenai Tribes, Flathead Tribal Council, Montana ... 210
Peaches, Daniel, assistant to Chairman MacDonald, Navajo Tribe, Arizona ... 136
Pemberton, Alfred "Tig", chairman, Minnesota Tribal Education Committee, accompanied by Kent Tupper, legal counsel; Larry Kitto, deputy director, Minnesota Chippewa Tribe; and Richard Tanner, coordinator, Jonnson-O'Malley program ... 249
Sampson, Melvin, Yakima tribal councilman, Education Committee, accompanied by Martha Yallup, director of education, Yakima Tribe ... 87
Snake, Reuben, chairman, Winnebago Tribal Council, Nebraska ... 69

Prepared statements, letters, supplemental material, et cetera—

Cooper, Sister Kateri, director, Division of Education, Papago Tribal Council, prepared testimony of ... 117

Clements, Warren R., municipal manager, Confederated Tribes, representing Chairman Eugene Green, Warm Springs Tribal Council, Oregon:

  Testimony of ... 39
  Background memorandum ... 45
  Indian Basic Education Act ... 59
Dupris, Joe, executive director, Coalition of Indian-Controlled School Boards, Inc., statement of ... 101

Gerard, Forrest J., Assistant Secretary, Indian Affairs, Department of the Interior:

  Letter to Chairman Blouin, enclosing information, dated May 10, 1978 ... 389
  Statement before the House Subcommittee on Interior, related agency appropriations, dated February 7, 1978, submitted by Rick Lavis ... 271

Prepared statements, letters, supplemental material, et cetera—Continued

Page

- Gunn, Virgil, chairman, Health, Education, and Welfare Committee, Colville Business Council:
  - Letter to Chairman Perkins enclosing letter form the Grand Coulee Dam School, dated February 16, 1978 95
  - Letter to Chairman Perkins, submitting written testimony, dated 16, 1978 99
- LaFromboise, Susan, chairperson, Reservation Education Board, Sisseton-Wahpeton Sioux Tribal Council, South Dakota, statement of 196
- Lavis, Rick, Deputy Assistant Secretary, Indian Affairs (program operations), Department of the Interior:
  - GSA management recommendations; construction and maintenance program 316
  - Information requests involving education 323
  - Letter to Alan Lovesee, enclosing report on teacher aids and title program positions, dated April 10, 1978 288
  - Memo to LP; from Gerri Hall 310
  - Memorandum of understanding and agreement for services 279
  - Permanent classroom positions, Bureau of Indian Affairs, dated February 17, 1978 308
  - Statement of 261
- Lay, Calvin, president, Seneca National of Indians, testimony submitted by 226
- Lovato, Del, chairman, All Indian Pueblo Council, statement of 190
- McDonald, Joseph F., tribal councilman, Confederated Salish and Kootenai Tribes of the Flathead Reservation, testimony of 208
- Mississippi Band of Choctaw Indians Tribal Council, Committee on Education, statement of 93
- Navajo Nation:
  - Comments of recommendations 150
  - Impact of H.R. 9810 164
  - Navajo comprehensive education plan 173
  - Resolution of Navajo Tribal Council 168
  - Written statement of 144
- Peaches, Daniel, staff assistant to Peter MacDonald, chairman, Navajo Tribal Council, testimony submitted on behalf of 128
- Pemberton, Alfred "Tig," chairman, Minnesota Tribal Education Committee, Minnestoa Chippewa Tribe, statement of 242
- Pressler, Hon. Larry, a Representative in Congress from the State of South Dakota, questions read by 303
- Sampson, Melvin, Yakima tribal councilman, Education Committee:
  - Letter enclosing supplemental statement, dated March 24, 1978 82
  - Statement of 78
- Sisseton public school, Sisseton, S. Dak., statement with attachments, dated March 8, 1978 363
- Sisseton-Wahpeton Sioux Tribe, Lake Traverse Reservation, Sisseton, S. Dak., testimony 196
- Skeet, Wilson C., vice-chairman, Navajo Tribal Council, statement of 131
- Snake, Reuben A., Jr., chairman, Winnebago Tribe of Nebraska, testimony of 66
- Tiger, Georgianna, education director, National Congress of American Indians, testimony of 355
- Trimble, Albert W., president, Oglala Sioux Tribe, mailgram to Hon. Michael T. Blouin, dated February 7, 1978 224

INDIAN BASIC EDUCATION ACT

TUESDAY, FEBRUARY 7, 1978

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON ELEMENTARY, SECONDARY
AND VOCATIONAL EDUCATION,
COMMITTEE ON EDUCATION AND LABOR,
Washington, D.C.

The subcommittee met, pursuant to notice, at 1:30 p.m., in room 2261, Rayburn House Office Building, Hon. Michael Blouin, presiding.

Members present: Representatives Blouin, Simon, Mottl, Quie, and Pressler.

Staff present: Alan Lovesee, counsel; John Forkenbrock, staff director; Jeff McFarland, and Scherri Tucker, majority staff; Jennifer Wysong, minority research assistant; and Christopher Cross, minority staff director.

Mr. SIMON. The subcommittee hearing will come to order.

I am just pinch-hitting temporarily for the chairman, Congressman Mike Blouin, who will be here shortly. I am reading a statement he has prepared, and I am reading it in his behalf.

The Subcommittee on Elementary, Secondary and Vocational Education in conjunction with the Advisory Study Group on Indian Education is conducting 3 days of hearings on H.R. 9810, the Indian Basic Education Act.

During these hearings, we will obtain input from official representatives of Indian tribal governments an aspect of self-determination which is too often missing with respect to Congress' relationship with the Indian governments. The Bureau and organizations are consulted, but too often this final link in the legislative process is ignored.

With this in mind, I welcome the witnesses. Unfortunately, simple matters of time and situations have made it impossible for us to receive oral testimony from everyone. I want to make clear that the record will remain open for the input of tribes other than those who will testify here today.

[The text of H.R. 9810 follows:]

95TH CONGRESS
1ST SESSION

H. R. 9810

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 28, 1977

Mr. BLOUIN (for himself and Mr. QUIE) introduced the following bill; which was referred to the Committee on Education and Labor

---

A BILL

To amend Public Law 874, Eighty-first Congress, to provide for the basic education of Indian children, to provide improvements in the delivery of other educational services for Indians, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Indian Basic Education Act".

AMENDMENT TO PUBLIC LAW 874, EIGHTY-FIRST CONGRESS

SEC. 2. (a) (1) Effective with respect to fiscal years beginning on or after the date of the enactment of this Act, section 3 of the Act entitled "An Act to provide financial assistance for local educational agencies in areas affected by

Federal activities, and for other purposes" (Public Law 874, Eighty-first Congress; 20 U.S.C. 238) approved September 30, 1950, is amended by redesignating subsection (f) as subsection (i) and inserting after subsection (e) the following:

"Entitlements for Indian Children

"(f) (1) In lieu of that portion of entitlements authorized by section 3 (a) which is attributable to Indian children determined for purposes of this section, the Commissioner shall, subject to paragraphs (2) and (3), make a payment for each fiscal year to each local educational agency which is located on or in close proximity to an Indian reservation in an amount equal to the product of the average per pupil expenditure of such agency for such year multiplied by the number of Indian children who—

"(A) were in average daily membership at the schools of such agency,

"(B) resided on Indian lands as described in clause (A) of section 403 (1), or on land held by an Indian tribe and which is exempt from State or local taxation, except where the land is so exempted by State or local action, while in attendance at such schools, and

"(C) were provided a free public education by such agency during such year.

"(2) (A) Payments under this subsection shall be made only to local educational agencies which have submitted, within one year after the date of the enactment of the Indian Basic Education Act, or, where local educational agencies are formed after such date of enactment, within one year after their formation, a plan of basic education for Indian students which has been approved in accordance with subparagraph (C) and which operate such plan. The Commissioner shall have the authority to waive this one-year limit where he finds good cause.

"(B) Nothing in this subsection shall be interpreted as encouraging the creation of separate or segregated programs for the basic education of Indian students, except that Indian students shall be permitted to enroll in bilingual programs to the extent required by need.

"(C) The Commissioner shall approve any plan of basic education for Indian students submitted by a local educational agency eligible under paragraph (1) only if such plan—

"(i) provides education for Indian children which is not less than the standard education program of the State and the school district in which the agency is located for students of the same age and grade level,

"(ii) provides such services as the Commissioner determines to be necessary, including transportation, counseling, and health care, which are at least equivalent to those provided to non-Indian children by the State and the school district in which the agency is located,

"(iii) provides, in a manner to be determined by regulation, for active solicitation by the agency of the views of the Indian community to be served by the plan with respect to the needs of the Indian students to be served,

"(iv) is formulated with the participation of the designated representative of each tribal council of any Indian tribe whose children are to be served by the plan, and has not been formally rejected by any such designee, and

"(v) to the extent determined by the Commissioner through regulations, covers a period of not more than three years and, in the determination of the Commissioner, affords adequate opportunity for periodic review by all parties.

"(D) The Commissioner shall make payments under this subsection only upon an application therefor at such time and in such manner as the Commissioner shall by regulation require, which—

"(i) provides assurances that any extension of the geographical area or student population served by any school district of the local educational agency into areas where Indian students were previously served by a Bureau of Indian Affairs school shall be made only with the approval of the governing body of each Indian tribe which will be affected by such extension,

"(ii) is made by (I) a school board (or its legal equivalent) of which a majority of the members are Indians, or (II) in cases where only one Indian tribe is involved, is signed by the entity designated by the tribal council of such tribe for this purpose, or, in cases where more than one such tribe is affected, has been, under regulations of the Commissioner in consultation with the Assistant Secretary for the Bureau of Indian Affairs, adequately considered and influenced by those tribes, and

"(iii) in those cases where the entity designated by the tribal council does not sign the application of a local education agency, the governing body of the tribe concerned shall review this action.

"(E) The Commissioner in consultation with the Assistant Secretary for the Bureau of Indian Affairs shall by regulation establish such procedures as the Commissioner determines to be adequate in order to provide each tribal council of an Indian tribe whose children are served by a plan approved under subparagraph (C) with reasonable opportunities for the evaluation of such plan.

"(F) The Commissioner shall carry out a program of evaluation of any plan approved under subparagraph (C), and shall report the results of such evaluation to the Congress as a part of the annual evaluation report under section 417 of the General Education Provisions Act and shall, within a maximum of thirty months after the date of enactment of the Indian Basic Education Act, submit to the Congress a detailed report on this program, along with recommendations for improvement.

"(G) In those instances where the tribe or tribes to be served by the public school shall formally reject the plan of basic education adopted by such school, the Commissioner shall—

"(i) within one month after the date of such rejection, require the parties involved to submit to him, in writing, statements of their respective positions,

"(ii) within six months after receipt of these statements, attempt to negotiate a plan agreeable to both parties, and

"(iii) in instances where the education of Indian students would be adversely affected, allow the local public school to receive funds for the education of the Indian students in a program which meets the requirements of subparagraph (C) (i).

"(H) If no negotiated plan is adopted within the period of time required under subparagraph (G), after such negotiations begin, the Indian tribe or tribes concerned may, within one month after the end of that period, at their option, elect to—

"(i) have such educational services provided by a school operated by the Bureau of Indian Affairs, or

"(ii) operate a school for their own students under the provisions of title II of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 455–458e), in contract with the Bureau of Indian Affairs.

"(I) In the event that there is no agreed upon plan of basic education after the negotiation period referred to in subparagraph (G) and after the period allowed under subparagraph (H), if the tribe has not exercised either of its options, the Commissioner shall, after consultation with all parties, determine the plan of basic education to be adopted.

"(J) (i) In those instances where the tribe or tribes affected exercise either option under subparagraph (H), the tribe or tribes affected shall notify, in writing, the Bureau of Indian Affairs of their intention to so contract or to have the Bureau provide such services, within six months after the date of the election of that option. Letting of a contract under this authority or commencement of provision of services, as the case may be, shall occur within two years after the end of the six-month notice period. In cases where all parties are in agreement, and where there is no construction involved, the contract may be entered into, or the Bureau may commence to provide services, for any school year which begins not less than one year after the end of the six-month notice period. In cases where construction must take place, the construction shall not begin until after the end of the two-year period which follows the six-month notice period, and such construction shall be completed, if possible, by the end of the first fiscal year which begins after the end of such two-year period.

"(ii) In the event that an Indian tribe has exercised either option under subparagraph (H) and has established a school, or is having the Bureau of Indian Affairs provide education services, any public school which has been affected by withdrawal of students resulting from the exercise of that option may submit an amended count of the number of students for which it is eligible to receive funds under this Act at such time as the Commissioner shall determine by regulation, if such time determined will provide adequate opportunity to reflect student population changes that result from students' electing to continue in the local educational agency program or from students' electing to return to the local educational agency program from the program operated under subparagraph (H).

"(iii) In any case where a local educational agency has been affected by a tribe exercising either option under subparagraph (H), that agency shall be exempt from the provisions of this subsection requiring tribal concurrence in the education program to be offered for the students of that tribe, except that, in multitribal situations, opportunity shall be provided for tribal concurrence for those tribes who have not exercised an option.

"(iv) The President shall submit (by March 31 of each year) a budget amendment to Congress which will transfer program moneys affected by a tribal exercise of its option under subparagraph (H) from the Department of Health, Education, and Welfare to the Department of the Interior.

"(v) Nothing in this subparagraph or subparagraph (H) shall be deemed to preclude any tribe or tribes which have exercised either option under subparagraph (H) from thereafter electing to return their students to the local educational agency, except that, in such a case, notice of such election shall be given to the Bureau of Indian Affairs not less than five years in advance, and, in any such case where construction has taken place, such notice shall be given not less than ten years in advance.

"(g) Notwithstanding paragraph (2) of section 5(d) of this Act, funds made available under this subsection may be considered as local resources in the calculation of the amount of State aid to a local educational agency for purposes of equalization, except that such funds may be so considered only in proportion to the share that local revenues covered under a State equalization program (whether or not such program otherwise qualifies for purposes of section 5(d) (2)) are of total local revenues.

"(h) Nothing in subsections (f) and (g), which are based upon the special relationship between the United States and Indian Nations, shall be deemed to relieve any State of any duty with respect to citizens of that State.".

(2) Effective with respect to fiscal years beginning on or after the date of the enactment of this Act, section 3 of such Public Law 874, Eighty-first Congress, is further amended by adding at the end thereof the following new subsection:

"(k) For purposes of subsection (f), the term—

"(1) 'average per pupil expenditure' means the aggregate current expenditure, during the second fiscal year preceding the fiscal year for which the computation is made, of the local educational agency divided by the aggregate number of children in average daily attendance for whom such agency provided free public education during such second preceding fiscal year;

"(2) 'Assistant Secretary' means the Assistant Secretary of the Bureau of Indian Affairs;

"(3) 'Indian reservation' has the meaning given that term under regulations of the Bureau of Indian Affairs established for purposes of the Act entitled 'An Act authorizing appropriations and expenditures for the administration of Indian Affairs, and for other purposes'; approved November 2, 1921 (42 Stat. 208; 25 U.S.C. 13; commonly referred to as the 'Snyder Act');

"(4) 'Average daily membership' means the average daily number of students officially enrolled during the school year; and

"(5) 'plan of basic education' means a plan for educational studies which best fulfill the academic, vocational, and social growth requirements of the majority of students in attendance at schools of the local educational agency.".

(b) Effective with resepct to fiscal years beginning on or after the date of the enactment of this Act, section 5(c) (1) of such Public Law 874, Eighty-first Congress is amended—

(1) by striking out "which is entitled to a payment under section 2" and inserting in lieu thereof

"which is entitled to a payment under section 2 and section 3 (f)"; and

(2) by striking out "under that section for such fiscal year" and inserting in lieu thereof "under either such section for such fiscal year".

STANDARDS FOR THE BASIC EDUCATION OF INDIAN CHILDREN IN BUREAU OF INDIAN AFFAIRS SCHOOLS

SEC. 3. (a) The Assistant Secretary, in consultation with the Assistant Secretary of Health, Education, and Welfare for Education, shall, through the National Institute of Education and National Center for Education Statistics carry out such studies and surveys, making the fullest use possible of other existing studies, surveys, and plans, as are necessary to establish standards for the basic education of Indian children attending Bureau schools or schools operated under contract with the Bureau and establish a set of such standards. Such standards shall be established within eighteen months after the date of the enactment of this Act, and shall apply to schools of the Bureau of Indian Affairs, and may also serve as a model for education programs for Indian children in public schools.

(b) Such studies and surveys shall be conducted in such a manner as to provide an opportunity for organizations concerned with Indian interests to participate therein, shall take into account such factors as the academic needs of such

Indian children, local cultural differences characterizing such children, the type and level of language skills of such children, the geographical isolation of such children, and appropriate teacher-student ratios for such children, and shall be directed toward the attainment of equal educational opportunity for such children.

(c) Not later than the beginning of the first school year which follows the date of issuance of the standards for the basic education of Indian children established under subsection (a) but no less than six months following such date of issuance, the Bureau of Indian Affairs shall implement such standards in all schools operated by the Bureau. The Assistant Secretary, through the contracting procedures, shall assist school boards of Indian-controlled schools under contract with the Bureau in the implementation of these standards.

(d) The Assistant Secretary shall alter the standards formulated under this section, where necessary, so that the programs of each Bureau operated school shall be no less than the minimum standards required for accreditation of schools in the State where the school is located.

(e) The head of the Bureau of Indian Affairs may alter the standards for the basic education of Indian children established under subsection (a) as he deems appropriate, in order to take into account the needs of individual tribes as expressed through the governing bodies of those tribes in cases where the academic standards are not lower than those established under subsections (a) and (d). The head of the Bureau of Indian Affairs may also alter said standards to take into account the needs of Indian controlled schools under contract with the Bureau, as expressed by their school boards, under the same restrictions.

(f) There are hereby authorized to be appropriated such sums as may be necessary for academic program costs, in order to bring the schools referred to in subsection (a) up to the level required by the standards for the basic education of Indian children as required by subsections (a) and (d).

NATIONAL CRITERIA FOR DORMITORY SITUATIONS

SEC. 4. (a) The Assistant Secretary, in consultation with the National Institute of Education or by contract, shall, within eighteen months after the date of enactment of this Act, conduct a comparative study of the costs applicable to boarding arrangements for Indian students provided directly by the Bureau of Indian Affairs or provided under contract with the Bureau, and shall establish, based on the results of such study, national criteria for such dormitory situations. Such criteria shall include requirements as to adult-child ratios, needs for counselors (including special needs related to off-reservation boarding arrangements), space, and privacy. Within one year after the date of establishment of the criteria under this subsection, the Assistant Secretary shall submit to Congress a detailed plan for meeting these criteria in all Bureau schools and Indian controlled schools under contract with the Bureau. Such plan shall include, but not be limited to, cost estimates for meeting such criteria, predictions for relative need for such boarding facilities in the future, and timelines for completion of the compliance plans.

FACILITIES CONSTRUCTION

SEC. 5. (a) The Bureau of Indian Affairs shall bring all schools, dormitories, and other facilities operated by the Bureau in connection with the education of Indian children into compliance with all applicable Federal or State health and safety standards, whichever provide greater protection, and with section 504 of the Vocational Rehabilitation Act (29 U.S.C. 31).

(b) The Bureau of Indian Affairs shall submit to Congress, and shall have published in the Federal Register, the system used to establish priorities for school construction projects. The Bureau of Indian Affairs shall also, at the time the budget is presented, cause to be printed in the Federal Register and included in the Budget request a current list of all construction priorities.

(c) There are hereby authorized to be appropriated such sums as may be necessary to carry out subsection (a).

INDIAN ELEMENTARY AND SECONDARY SCHOOL ASSISTANCE ACT

SEC. 6. Notwithstanding any other provision of law, any Indian tribe which operates any school for its children shall be deemed to be a local educational agency for purposes of section 303 (a) of the Indian Elementary and Secondary School Assistance Act (title III of Public Law 874, Eighty-first Congress) if each such school, as determined by the Commissioner, operated by that tribe provides its students an educational program which meets the standards established under section 3 for the basic education of Indian children or is a school operated under contract by that tribe in accordance with the provisions of section 3 (f) (2) (G) (ii) of Public Law 874, Eighty-first Congress.

REGULATIONS

SEC. 7. The Assistant Secretary shall establish such regulations as are necessary to carry out sections 3 and 4 within eighteen months after the date of the enactment of this Act.

BUREAU OF INDIAN AFFAIRS EDUCATION FUNCTIONS

SEC. 8. (a) The functions of the Bureau of Indian Affairs (hereinafter in this Act referred to as the "Bureau") with respect to the daily direction, supervision, and expenditure of Federal funds for the purpose of education are hereby vested in the Office of Indian Education Programs of the

Bureau (hereinafter in this Act referred to as the "Office") and the exercise of such functions shall be governed by the provisions of this Act, any other provision of law to the contrary notwithstanding. Nothing within this Act shall be construed as affecting, diminishing, or altering the authority of the Assistant Secretary in any way, and all ultimate authority in Indian education matters administered by the Department of the Interior shall remain with the Assistant Secretary and the Secretary of the Interior.

(b) The Director of the Office shall direct and supervise the operations of all personnel within the Bureau who are solely involved in education functions, whether or not such personnel are located within the Office or in another division of the Bureau. Area offices of the Bureau shall not exercise any functions with respect to matters directly involving Indian education, except that education personnel located in such area offices, who are under the direction and supervision of the Director of the Office in accordance with the preceding sentence, shall provide necessary technical assistance to schools assisted by the funds described in subsection (a) of this section and shall coordinate the education functions of the Office with other services provided by the Bureau.

(c) Education personnel located in agencies under the Bureau, who are under the direction and supervision of the

Director of the Office in accordance with the first sentence of subsection (a), shall—

(1) monitor and evaluate education programs assisted by the funds described in subsection (a),

(2) provide assistance in connection with personnel actions relating to such programs, and

(3) provide technical and coordinating assistance in areas related to such programs such as procurement, contracting, budgeting, and curriculum.

However, in the case of boarding schools located off reservations operated by the Bureau, education personnel located in area offices of the Bureau shall, if the Director of the Office so determines, provide such services, under the direction and supervision of the Director of the Office.

(d) In the case of personnel whose sole responsibility is not education, the Assistant Secretary shall institute procedures for supervisors which adequately reflect divisions of time and responsibility.

IMPLEMENTATION

SEC. 9. Within six months after the date of the enactment of this Act, the Assistant Secretary shall, after consultation with the Director of the Office and such other personnel of the Bureau as are appropriate, establish and publish in the Federal Register the policies and procedures which are necessary to implement the transfer of functions made by section 8 of this Act, and shall establish permanent procedures for communication between the Director of the Office and the heads of other divisions within the Bureau, for the purpose of achieving such transfer with a minimum disruption of services and insuring that the Office receives all support services required to carry out the functions so transferred to the Office.

ALLOTMENT FORMULA

SEC. 10. (a) The Director of the Office shall establish by regulation adopted in accordance with section 20 a formula for determining the minimum allotment necessary to sustain each Bureau or Indian-controlled contract school. Such formula shall take into consideration, but not be limited to considering, the following factors:

(1) number of Indian students served and size of the school;

(2) special cost factors, such as—

(A) isolation of the school;

(B) need for special staffing, transportation, or educational programs; and

(C) food and housing costs; and

(3) the cost of providing academic services which are at least equivalent to those provided by public schools in the State in which the school is located.

(b) Notwithstanding any other provision of law, Federal funds administered by the Bureau used to assist Bureau and Indian-controlled contract schools shall be allotted in accordance with the formula established under subsection (a), except that, in the case any such school which is located in a school district of a local educational agency which receives from Federal funds an average payment per Indian child attending public school in that district which is higher than the amount which would be received by such Bureau or Indian-controlled contract school under such formula for each Indian child attending that school, the payment to be received by that school for each such child shall be equal to such average payment for an Indian child in public school in that district.

(c) The Assistant Secretary shall by regulation establish a fund in the Office which shall be under the control of the Director of the Office and which shall serve the purpose of providing funds in cases of emergencies, unforeseen contingencies, or budget shortfalls in connection with Federal funds for the purpose of educational plans administered by the Bureau. Use of such fund shall be in the discretion of the Director of the Office, except that, in connection therewith, the Director shall consult with, and consider the recommendations of, the superintendents for education of the various agencies under the Bureau.

UNIFORM DIRECT FUNDING AND SUPPORT

SEC. 11. (a) (1) Within six months after the date of enactment of this Act, the Office shall establish by regulation adopted in accordance with section 20 a system for the direct funding and support of all Bureau schools and all Indian-controlled contract schools. Such system shall allot funds, in accordance with section 10, and shall provide each affected school with notification of its approximate allotment not later than the end of the school year preceding the year for which the allotment is to be made. Such system shall distribute funds on the basis of local financial plans which shall be prepared by local school administrators, and the local school board for each school shall have the authority to ratify or reject such financial plan, and expenditures thereunder, and, on its own determination or in response to the supervisor of the school, to revise such financial plan to meet needs not foreseen at the time of preparation of the financial plan. Each financial plan prepared for an Indian-controlled contract school shall be prepared in such a manner as to ensure local participation.

(2) The funds to be distributed under this section shall not be subject to the band analysis of programmatic budgetary prioritization of any tribe. However, nothing in this Act shall be construed as prohibiting the governing body

of any tribe from stipulating that funds that are on the band analysis shall augment the funds provided by this section.

(3) A local school board shall have financial plan authority under paragraph (1) unless the tribe affected (or, in the case of a school serving several tribes, all the affected tribes), by formal action of tribal governing body, determines that such board shall not have such authority. In the case of such a determination, the Assistant Secretary shall investigate the causes of such determination and take such steps as may be necessary to remedy such causes.

(b) Funds under the Self-Determination Grants of the Indian Self-Determination Act (5 U.S.C. 3371; 25 U.S.C. 450f–450n; 42 U.S.C. 2004b, 4762; 50 U.S.C. app. 456) shall not be used for providing technical assistance and training in the field of education by the Bureau unless such services are provided in accordance with a plan agreed to by the tribe or tribes affected and the Bureau, under which control of education programs will be transferred to such tribe or tribes within a specific period of time negotiated under such agreement.

(c) In the exercise of its authority under this section, a local school board may request technical assistance and training from the Director of the Office, and the Director shall, to the extent possible, provide such services, and make appropriate provisions in the budget of the Office for such services.

POLICY FOR INDIAN CONTROL OF INDIAN EDUCATION

SEC. 12. It shall be the policy of the Bureau in carrying out the functions of the Bureau to foster Indian control of Indian affairs in all matters relating to education.

EDUCATION PERSONNEL

SEC. 13. (a) Chapter 51 of title 5, United States Code, relating to classification of civil service employees, shall not apply to educators or to education positions.

(b) (1) Not later than six months after the date of the enactment of this Act, the Assistant Secretary shall prescribe regulations to carry out this section. Such regulations shall govern—

(A) the establishment of education positions,

(B) the establishment of qualifications for educators,

(C) the fixing of basic compensation for educators and education positions,

(D) the appointment of educators,

(E) the discharge of educators,

(F) the entitlement of educators to compensation,

(G) the payment of compensation to educators,

(H) the conditions of employment of educators,

(I) the length of the school year applicable to education positions,

(J) the leave system for educators, and

(K) such other matters as may be appropriate to carry out the purposes of this section.

(2) In prescribing regulations to govern the appointment and qualifications of educators, the Assistant Secretary shall require that—

(A) each educator meet the certification standards of the State in which such educator will serve (except that the Assistant Secretary may make such exceptions as are necessary to carry out the purposes of this Act),

(B) lists of applicants for education positions be maintained at the local, area, and national levels, and

(C) hiring of educators be done at the lowest local level consistent with good management policy.

It shall not be a prerequisite to the employment of an individual in an education position at the local level that such individual be on a list maintained under subparagraph (B).

(3) The regulations to be prescribed by the Assistant Secretary under paragraph (1) shall become effective on such date as the Assistant Secretary shall prescribe, but not later than the ninetieth day following the date of issuance of such regulations.

(c) (1) Subject to paragraphs (2) and (3) and except as otherwise provided under regulations prescribed pursuant to subsection (b) (2) (C)—

(A) educators employed in a school (other than the supervisor of the school) shall be hired by the supervisor of the school,

(B) each school supervisor shall be hired by the superintendent for education of the agency office of the Bureau in which the school is located, and

(C) educators at the agency level in the Bureau shall be hired by the superintendent for education of the agency.

(2) (A) Before any individual may be employed in an education position at the local level, the appropriate local school board shall be consulted. Subject to subparagraph (B), a determination by such school board that such individual should or should not be so employed shall be followed by the hiring authority prescribed under paragraph (1).

(B) (i) The supervisor of a school may appeal to the appropriate agency superintendent for education any determination by the local school board for the school that an individual be employed, or not be employed, in an education position in the school other than that of supervisor. Upon such an appeal, the agency superintendent for education may sustain the recommendation of the supervisor with respect to such individual if he determines, in writing, that there is good cause for such action.

(ii) The superintendent for education of an agency office of the Bureau may appeal to the Director of the Office any determination by the local school board for a school that an individual be employed, or not be employed, as the supervisor of the school. Upon such an appeal, the Director of the Office may sustain the recommendation of the agency superintendent if he determines, in writing, that there is good cause for such action.

(3) (A) Before any individual may be employed in an education position at the agency level, the appropriate agency school board shall be consulted. Subject to subparagraph (B), a determination by such school board that such individual should or should not be so employed shall be followed by the hiring authority prescribed under paragraph (1).

(B) The superintendent for education of an agency office of the Bureau may appeal to the Director of the Office any determination by the agency school board that an individual be employed, or not be employed, in an education position in such agency office other than that of superintendent for education. Upon such an appeal, the Director of the Office may sustain the recommendation of the superintendent for education if he determines, in writing, that there is good cause for such action.

(d) (1) The supervisor of a Bureau school may discharge for cause (as determined under regulations prescribed by the Assistant Secretary) any educator employed in such school. Upon giving notice of discharge to an educator, the supervisor involved shall immediately notify the local school board for the school of such action, and the local school board shall have the right to appeal such action to the superintendent for education of the appropriate agency and to the Director of the Office.

(2) Each local school board for a Bureau school shall have the right (A) to recommend to the supervisor of such school that an educator employed in the school be discharged, and (B) to recommend to the superintendent for education of the appropriate agency and to the Director of the Office that the supervisor of the school be discharged.

(e) Notwithstanding any other provision of law, the local school board for a Bureau school shall have the authority to waive the preference of Indians required by law for appointment to positions related to Indian affairs with respect to education positions in such school.

(f) Subject to the authority of the Civil Service Commission to determine finally the applicability of chapter 51 of title 5, United States Code, to specific positions and employees in the executive branch, the Director of the Office shall—

(1) determine the applicability of such chapter to positions and employees in the Office; and

(2) establish the appropriate annual salary rate in

accordance with this section for each such position and individual to whom such chapter is determined to be inapplicable.

(g) (1) The Director of the Office shall fix the basic compensation for educators and education positions at rates comparable to the rates in effect under the General Schedule for individuals with comparable qualifications, and holding comparable positions, to whom chapter 51 is applicable.

(2) Each educator employed in an education position in Alaska shall be paid a cost-of-living allowance equal to 25 per centum of the rate of basic compensation to which such educator is entitled.

(3) The Director of the Office may pay a post differential on the basis of conditions of environment or work which warrant additional pay as a recruitment and retention incentive. Such a post differential may not exceed 25 per centum of the rate of basic compensation.

(h) Any individual—

(1) who on the date of the enactment of this Act is holding a position which is determined to be an education position and who elects under subsection (n) (2) to be covered under the provisions of this section, or

(2) who is an employee of the Federal Government or the municipal government of the District of Columbia

and is transferred, promoted, or reappointed, without break in service, from a position under a different leave system to an education position,

shall be credited, for the purposes of the leave system provided under regulations prescribed pursuant to subsection (b) (1) (J), with the annual and sick leave to his credit immediately before the effective date of such election, transfer, promotion, or reappointment.

(i) In any case in which the amount of sick leave which is to the credit of any individual under a different leave system immediately before the date on which he becomes subject as an educator to the leave system provided by this section and which is included in the leave provided for under regulations prescribed pursuant to subsection (b) (1) (J) is in excess of the maximum amount of accumulated leave allowable under such regulations, such excess shall remain to the credit of such individual until used, but the use during any leave year of an amount in excess of the aggregate amount which shall have accrued during such year shall reduce automatically the maximum allowable amount of accumulated leave at the beginning of the next leave year until such amount no longer exceeds the maximum amount allowable under such regulations.

(j) Any annual leave remaining, upon his separation from the service, to the credit of an individual within the purview of this section shall be liquidated in accordance with sections 5551 (a) and 6306 of title 5, United States Code, except that leave earned or included under such regulations shall not be so liquidated.

(k) In the case of any educator who is transferred, promoted, or reappointed, without break in service, to a position under a different leave system, the annual leave, and any other leave earned or credited under such regulations, which is to his credit immediately before such transfer, promotion, or reappointment, shall be transferred to his credit in the employing agency on an adjusted basis in accordance with regulations which shall be prescribed by the United States Civil Service Commission.

(l) In the case of any educator employed in an education position described in subsection (m) (1) (A) who—

(1) is so employed at the close of a school year,

(2) agrees in writing to serve in such a position for the next school year, and

(3) is employed in another position in the recess period immediately preceding such next school year, or during such recess period receives additional compensation referred to in subsection (g) (2) or (g) (3),

section 5533 of title 5, United States Code, relating to dual compensation, shall not apply to such educator by reason of any such employment during a recess period or any such receipt of additional compensation.

(m) For the purposes of this section—

(1) the term "education position" means a position in the Bureau the duties and responsibilities of which—

(A) are performed on a school-year basis principally in a school operated by the Bureau and involve—

(i) classroom or other instruction or the supervision or direction of classroom or other instruction, or

(ii) any activity (other than teaching) which requires academic credits in educational theory and practice equal to the academic credits in educational theory and practice required for a bachelor's degree in education from an accredited institution of higher education; or

(iii) any activity in or related to the field of education notwithstanding that academic credits in educational theory and practice are not a formal requirement for the conduct of such activity; or

(B) are performed at the agency level of the

Bureau and involve education-related programs of the Bureau;

but such term does not include the position of superintendent for education at the agency level of the Bureau; and

(2) the term "educator" means an individual whose services are required, or who is employed, in an education position.

(n) (1) This section shall apply with respect to any individual hired after the date of the enactment of this Act for employment in an education position and to the position held by such individual. Subject to paragraph (2), the enactment of this Act shall not affect—

(A) any education position existing immediately before the date of the enactment of this Act,

(B) the compensation attached to such position, or

(C) any incumbent of such a position, his appointment to such position, or his right to receive the compensation attached to such position.

(2) Any individual described in paragraph (1) (C) may make an irrevocable election to be covered under the provisions of this section.

MANAGEMENT INFORMATION SYSTEM

SEC. 14. The Secretary of the Interior shall establish within the Bureau, within one year after the date of the enactment of this Act, a computerized management information system, which shall provide information to all agency and area offices of the Bureau, and to the Office. Such information shall include—

(1) student enrollment;

(2) curriculum;

(3) staff;

(4) facilities;

(5) community demographics; and

(6) student assessment information.

BUREAU EDUCATION POLICIES

SEC. 15. Within one hundred and eighty days after the date of the enactment of this Act, the Office shall develop and submit to the field offices and agencies of the Bureau, the tribal governments, and the appropriate committees of the Congress a draft set of education policies, procedures, and practices for education-related actions of the Bureau. The Director of the Office shall, within one year after the enactment of this Act, provide that such uniform policies and procedures shall be finalized and promulgated. Thereafter, such policies and procedures, and their periodic revisions, shall serve as the foundation for future Bureau actions in education.

UNIFORM EDUCATION PROCEDURES AND PRACTICES

SEC. 16. The Assistant Secretary shall cause the various divisions of the Bureau to formulate uniform procedures and practices with respect to such of the concerns of those divisions as they relate to education, and shall report such practices and procedures to the Congress.

RECRUITMENT OF INDIAN EDUCATORS

SEC. 17. The Assistant Secretary shall cause to be instituted within the Office a recruitment policy with respect to qualified Indian educators and a detailed plan to promote employees from within. Such plan shall include opportunities for acquiring work experience prior to actual work assignment.

ANNUAL REPORT

SEC. 18. The Assistant Secretary shall submit to each appropriate committee of the Congress a detailed annual report on the state of education within the Bureau and any problems encountered in the field of education during the year. Such report shall contain suggestions for improving the Bureau educational system and increasing local Indian control.

EFFECT ON BUREAU FUNDING

SEC. 19. Nothing in this Act shall be interpreted to deny the Bureau funding from any present source.

REGULATIONS

SEC. [illegible]0. Regulations required to be adopted in accordance with sections 8 through 18 of this Act shall be deemed rules of general applicability prescribed for the administration of an applicable program for the purposes of section 431 of the General Education Provisions Act and shall be promulgated, submitted for congressional review, and take effect in accordance with the provisions of such section.

STUDIES

SEC. 21. Up to $1,000,000 of the sums appropriated under the Act entitled "An Act authorizing appropriations and expenditures for the administration of Indian Affairs, and for other purposes"; approved November 2, 1921 (42 Stat. 208; 25 U.S.C. 13; commonly referred to as the "Snyder Act"); for any fiscal year may be used to carry out the studies conducted under section 3 (a) and section 4.

DEFINITIONS

SEC. 22. For the purpose of this Act—

(1) the term "local educational agency" means a board of education or other legally constituted local school authority having administrative control and direction of free public education in a county, township, independent, or other school district located within a State, and includes any State agency which directly operates and maintains facilities for providing free public education;

(2) the term "average per pupil expenditure" means the aggregate current expenditures, during the

second fiscal year preceding the fiscal year for which the computation is made, of the local educational agency divided by the aggregate number of children in average daily attendance for whom such agency provided free public education during such second preceding fiscal year;

(3) the term "Commissioner" means the Commissioner of Education;

(4) the term "local school board", when used with respect to a Bureau school, means the advisory school board of that Bureau school; and

(5) the term "Assistant Secretary" means the Assistant Secretary of the Bureau of Indian Affairs.

Mr. **Simon**. As I call your name, please approach the table. I also ask that each person summarize their oral testimony, so we may be allowed more time to pursue lines of thought.

Is Mr. Neil Morton here? No?

Then, if we can call on the next two people to come, and both speak at the same time. Mr. Reuben Snake, chairman, Winnebago Tribal Council, Nebraska; and Mr. Warren R. Clements, municipal manager, representing Chairman Eugene Green, Warm Springs Tribal Council, Oregon.

Here is the gentleman to whom I was referring earlier, Congressman Mike Blouin.

Mr. **Blouin**. Let me apologize for my tardiness. I thank you for being here today. We understand that you do have statements that will be inserted in the record in their complete submitted form. Feel free to summarize. We will start from left to right, as we are facing you.

We will hear from both of our witnesses and then we will have questions.

[The prepared testimony of Mr. Clements follows:]

TESTIMONY ON HR 9810--THE INDIAN BASIC EDUCATION ACT--BEFORE THE HOUSE COMMITTEE ON EDUCATION AND LABOR, FEBRUARY 7, 1978

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

I am Warren R. Clements, Municipal Manager of the Confederated Tribes of the Warm Springs Reservation of Oregon. It is a pleasure to appear before you today to express the concerns of the Warm Springs Tribes with HR 9810--the Indian Basic Education Act--which you have under consideration today.

We are opposed to HR 9810 in its present form. We believe that the legislation, if approved, would constitute a serious setback for Indian education efforts throughout the United States, and would undo some of the more promising developments in Indian education which Congress has initiated in the last few years.

HR 9810 represents an effort to establish coordination and accountability for Indian education programs. In seeking to do so, we believe that the proposal ignores the educational needs of Indians and merely reinstitutes policies which have been attempted previously without success. We can see little that is new in the legislation; we can see much that would be detrimental to furthering the improvement of educational services to Indians. I would like to explore briefly with the committee the nature of our objections to the proposal.

First, HR 9810 is an amalgam of various policies which are related only in the sense that they all involve Indian education.

The bill does not constitute a logical or systematic legislative response to any need articulated by Indian tribes for change. HR 9810 proposes to make far-reaching changes in areas of public school education for Indians, Bureau of Indian Affairs policies, BIA and contract schools, and tribal governments. It proposes these changes with little regard to their effects and with little promise of improved services.

Second, HR 9810 ignores the federal policy of promoting Indian tribal self-determination as embodied in PL 93-638, the Indian Self-Determination and Education Assistance Act of 1975. Although the proposal acknowledges this law's existence, it disregards its principles and seeks to circumvent its provisions.

Third, HR 9810 would enact into law many procedures and policies which already could be implemented by administrative action in the Bureau of Indian Affairs. Where specific legislative authority is necessary, these issues should be addressed in consultation with Indian tribes, the federal agencies involved, and other affected organizations and institutions. However, HR 9810 misses the mark in accomplishing adequate legislative reform. Where administrative discretion already exists to accomplish the proposed change, federal legislation is neither necessary nor desirable.

Fourth, HR 9810 is premature in that it effects sweeping reorganizations in Indian education programs within the Bureau of Indian Affairs at a time when a systematic evaluation of the Bureau is taking place. If HR 9810 were to become law, it would remove a central issue from consideration by the Task Force on the Reorganization of the BIA. Legislative solutions may be forthcoming from that study; if and when they are, they should be addressed on their merits.

Fifth, HR 9810 would establish education programs separately from other social services available from tribal, federal, and other resources. Education is one of the most significant issues facing Indian communities nationally, and it represents one of the major priorities for many tribes, including the Warm Springs. However, it cannot be effectively addressed in isolation from other concerns and needs for social services.

finally, ~~S~~ixth, while reorganizing education responsibilities within the Bureau of Indian Affairs, HR 9810 perpetuates dual authority between the Bureau and the Department of Health, Education, and Welfare for Indian education. The proposal would establish a new federal effort to meet the basic education needs of Indians, but by doing so principally through HEW, it could result in a dilution of the federal government's trust responsibility to Indian tribes.

For these reasons, the Confederated Tribes of the Warm Springs Reservation of Oregon are strongly opposed to HR 9810, particularly sections 3 through 21. We do believe that section 2, amending the provisions of PL 81-874, addresses a critical need for additional resources for basic education services for Indian students. With substantial amendments, we believe that this section would represent a significant contribution to Indian education programs.

I would like to enter into the record a more detailed analysis of our objections to HR 9810, and our recommendations for improving section 2. We cannot endorse HR 9810 in its present form; we will enthusiastically support the provisions in section 2 if these can be addressed in separate legislation in line with our suggested changes.

I would be pleased to answer any questions you may have about these issues.

STATEMENT OF WARREN R. CLEMENTS, MUNICIPAL MANAGER, REPRESENTING CHAIRMAN EUGENE GREEN, WARM SPRINGS TRIBAL COUNCIL, OREGON

Mr. Clements. Mr. Chairman and members of the committee. I am Warren R. Clements, municipal manager of the Confederated Tribes of the Warm Springs Reservation of Oregon. It is a pleasure to appear before you today to express the concerns of the Warm Springs Tribes with H.R. 9810, the Indian Basic Education Act, which you have under consideration today.

We are opposed to H.R. 9810 in its present form. We believe that the legislation, if approved, would constitute a serious setback for Indian education efforts throughout the United States, and would undo some of the more promising developments in Indian education which Congress has initiated in the last few years.

H.R. 9810 represents an effort to establish coordination and accountability for Indian education programs. In seeking to do so, we believe that the proposal ignores the educational needs of Indians and merely reinstitutes policies which have been attempted previously without success.

We can see little that is new in the legislation, we can see much that would be detrimental to furthering the improvement of educational services to Indians. I would like to explore briefly with the committee the nature of our objections to the proposal.

First, H.R. 9810 is an amalgam of various policies which are related only in the sense that they all involve Indian education. The bill does not constitute a logical or systematic legislative response to any need articulated by Indian tribes for change.

H.R. 9810 proposes to make far-reaching changes in areas of public school education for Indians, Bureau of Indian Affairs policies, BIA and contract schools, and tribal governments. It proposes these changes with little regard to their effects and with little promise of improved services.

Second, H.R. 9810 ignores the Federal policy of promoting Indian tribal self-determination as embodied in Public Law 93-638, the Indian Self-Determination and Education Assistance Act of 1975. Although the proposal acknowledges this law's existence, it disregards its principles and seeks to circumvent its provisions.

Third, H.R. 9810 would enact into law many procedures and policies which already could be implemented by administrative action in the Bureau of Indian Affairs. Where specific legislative authority is necessary, these issues should be addressed in consultation with Indian tribes, the Federal agencies involved, and other affected organizations and institutions.

However, H.R. 9810 misses the mark in accomplishing adequate legislative reform. Where administrative discretion already exists to accomplish the proposed change, Federal legislation is neither necessary nor desirable.

Fourth, H.R. 9810 is premature in that it effects sweeping reorganizations in Indian education programs within the Bureau of Indian Affairs at a time when a systematic evaluation of the Bureau is taking place.

If H.R. 9810 were to become law, it would remove a central issue from consideration by the Task Force on the Reorganization of the BIA. Legislative solutions may be forthcoming from that study. If and when they are, they should be addressed on their merits.

Fifth, H.R. 9810 would establish education programs separately from other social services available from tribal, Federal, and other resources. Education is one of the most significant issues facing Indian communities nationally, and it represents one of the major priorities for many tribes, including the Warm Springs. However, it cannot be effectively addressed in isolation from other concerns and needs for services.

Finally, sixth, while reorganizing education responsibilities within the Bureau of Indian Affairs, H.R. 9810 perpetuates dual authority between the Bureau and the Department of Health, Education, and Welfare for Indian education.

The proposal would establish a new Federal effort to meet the basic education needs of Indians, but by doing so principally through HEW, it could result in a dilution of the Federal Government's trust responsibility to Indian tribes.

For these reasons, the Confederated Tribes of Warm Springs Reservation of Oregon are strongly opposed to H.R. 9810, particularly sections 3 through 21. We do believe that section 2, amending the provisions of Public Law 81-874, addresses a critical need for additional resources for basic education services for Indian students.

With substantial amendments, we believe that this section would represent a significant contribution to Indian education programs.

I would like to enter into the record a more detailed analysis of our objections to H.R. 9810, and our recommendations for improving section 2. We cannot endorse H.R. 9810 in its present form; we will enthusiastically support the provision of section 2 if these can be addressed in separate legislation in line with our suggested changes.

We have submitted to the subcommittee a booklet that contains four sections. Under tab B is the background memorandum on H.R. 9810. The first tab is our suggested bill, which we took the liberty to write, inserting our changes to what is proposed. The last tab is H.R. 9810 as we received it, and in it we have marked out and inserted the changes. So you can see what we have done to the bill.

Mr. Blouin. Without objection, we will have the testimony, up through part A, B, and 1, inserted in the record. tab 1 is a proposal of what was left of 2, after you went through. Since 2 is the full text of the bill, which will already be in the record itself, it would just be an expense, unless you feel strongly that it be added.

Mr. Clements. That is fine. Thank you.

[The material referred to above follows:]

BACKGROUND MEMORANDUM ON HR 9810--THE INDIAN BASIC EDUCATION ACT--SUBMITTED BY WARREN R. CLEMENTS, MUNICIPAL MANAGER, THE CONFEDERATED TRIBES OF THE WARM SPRINGS RESERVATION OF OREGON

The Confederated Tribes of the Warm Springs Reservation are opposed to HR 9810 in its present form for the following reasons:

1. The proposal addresses unrelated Indian education issues in a disorganized fashion.
2. The proposal disregards the principles of the Indian Self-Determination and Education Assistance Act of 1975, PL 93-638.
3. The proposal adopts legislative policies in areas where there is existing administrative authority to the same effect.
4. The proposal preempts education services from consideration by the Task Force on the Reorganization of the Bureau of Indian Affairs.
5. The proposal would fragment education from other social services available from federal, tribal, and state sources.
6. The proposal perpetuates overlapping authority over Indian education between the Bureau of Indian Affairs and the Department of Health, Education, and Welfare.

The Confederated Tribes of the Warm Springs Reservation of Oregon do support, with modifications, the effort in HR 9810 to increase the basic education funds available for Indian students.

The purpose of this memorandum is to describe the bases for these objections to HR 9810 and to suggest necessary amendments to insure that the basic education needs of Indian students will be effectively addressed.

A. BASES OF GENERAL OBJECTIONS TO HR 9810

1. HR 9810's Overreaching Comprehensiveness

As proposed, HR 9810 appears to provide solutions to all the education needs of Indians in the United States. It purports to reform the financing for basic education, the administration of BIA and contract schools, and the development of policies for Indian education programs. Even if these were valid legislative concerns, the proposal treats each of them too superficially to hold out much promise of success. By trying to include something for everyone, the proposal is likely to accomplish little of lasting significance.

If any general philosophy can be discerned throughout HR 9810, it is that uniformity is desirable. The proposal's principal emphasis appears to be that national standards, criteria, plans, and administration are attainable and that they would result in improved educational services for Indians. For example, in section 3, the proposal calls for the development of basic education standards for all Indian students in Bureau or contract schools. In section 4, the proposal requires national criteria for dormitories; section 8 mandates the centralization of all authority for all BIA personnel "solely involved in education functions" within the

Office of Indian Education. Sections 15 and 16 require the adoption of uniform policies, practices, and procedures for all education-related actions of the Bureau.

It is unlikely that these legislative directives will be implemented. If they were, and if these goals were accomplished within the proposal's time frames, it is unquestionably true that the results would be totally unsatisfactory. Indians are acutely aware of the devastating effects of reorganizations of the Bureau and the results effected by the implementation of new, and presumably "enlightened," policies in federal administration, particularly in the area of education. These experiences have documented well that simple solutions are not available and cannot be legislated.

2. HR 9810's Disregard for Principles of Indian Self-Determination

If enacted, HR 9810 would constitute a serious interference with principles of tribal self-determination and would largely erase the opportunity to implement PL 93-638, the Indian Self-Determination and Education Assistance Act of 1975, in the area of education.

In general, most references in HR 9810 to PL 93-638 either directly or indirectly limit the latter's applicability. For example, in section (2)(a)(1)(f)(2)(H)(ii), the proposal purports to allow tribal governments to "operate a school for their own students under the provisions of Title II of the Indian Self-Determination and Education Assistance Act. . . ." Impliedly, however, this option is only available following the process outlined in the bill. Tribal governments presently have the authority to contract for all education programs for the benefit of Indians available from the BIA. If HR 9810 intends only to expand upon this authority, it should do so more explicitly without the appearance that existing tribal rights are being diminished.

Similarly, section 11(b) limits the use of grants under the Indian Self-Determination Act for technical assistance and training in education matters to those instances where the tribe is willing to adopt a plan transferring control of education programs to the tribe. Unlike this provision, section 11(c) authorizes the delivery of such services directly to a local school board which governs a Bureau or contract school. This provision seems contrary to the intent of PL 93-638 to assist tribes in the planning, designing, monitoring, and evaluating of Federal programs serving the tribe."

In the event that a tribal governing body determines that a contract school should not be under the financial authority of its school board, the Assistant Secretary is authorized by section 11(a)(3) to "remedy" the causes of this action. HR 9810 provides no standards for such secretarial intervention and no indication of what resolutions are to be attempted. If it were determined that the tribal action were unwarranted--although the criteria for making such a determination are unspecified--the tribe could, presumably, be overruled by the Assistant Secretary. Such an action would represent a serious interference with tribal governments, and HR 9810's lack of specificity in this area leaves considerable doubt about the role of tribal involvement in delivering education services.

In other instances, HR 9810's disregard of the principles of Indian self-determination are more subtle. In this respect, although the proposal may not directly interfere with the statutory provisions of PL 93-638, it becomes obvious that the bill would detract from, rather than reinforce, such principles. For example, section (2)(a)(1)(f)(2)(c) provides for the acceptance of a basic education plan by the Commissioner of Education if there has been "active solicitation" of the views of the Indian community--whose dimensions are undescribed in the legislation--and "participation," without formal rejection, of the tribal governing authority or its designee. These provisions only serve to cloud the issue of who is ultimately responsible for the education of Indian students. The proposal appears to rest this ultimate authority with the Commissioner of Education, in part because section (2)(a)(1)(f)(2)(G)(iii) authorizes the Commissioner to overrule tribal decisions and continue payments to schools districts where it is determined that the plan presented is adequate, regardless of tribal input.

Section 3(e) authorizes the Assistant Secretary to consider the views of tribal authorities in formulating the Basic Education Plan for BIA schools "as he deems appropriate." In section 4, no provision is made for even such limited tribal participation in the formulation of dormitory standards.

Section 12 provides: "It shall be the policy of the Bureau in carrying out the functions of the Bureau to foster Indian control of Indian affairs in all matters relating to education."

Although few Indian tribes would quarrel with this principle, its inclusion as a general statement in HR 9810 is of dubious value, especially where no mechanism is provided to further this goal and where no guidance is offered in the proposal as to what the policy means.

Conflicts between HR 9810 and the principles of Indian self-determination are inevitable because of the different thrusts of each. On the one hand, HR 9810 seeks greater control and accountability through centralization; on the other hand, Indian self-determination is rooted in the philosophy that centralization of Indian programs and services is inappropriate and counterproductive. and that instead, decision-making and program accountability must be developed by and be responsive to Indian tribes and their needs. HR 9810 fails to recognize that Indian tribal governments are responsible for providing government services to their members, and by misusing the terminology of Indian self-determination to serve its purposes, the proposal seriously undermines the basic policy of tribal sovereignty.

3. Legislative Mandates vs. Administrative Discretion

HR 9810 seeks to incorporate into statute many powers which already exist within the Bureau of Indian Affairs in regard to Indian education. For example, the proposal would mandate that the Bureau establish standards for its schools and policies for Indian education. If the concern addressed by HR 9810 is that the adequate implementation of such standards and policies has not occurred, stating the general authority to do so in statute is not going to make it happen. In seeking to do so, moreover, HR 9810 adds additional limitations on the exercise of the powers intended to be clarified by the proposal.

For example, HR 9810 directs that the development of BIA standards be in consultation with HEW and through the National Institute of Education and the National Center for Education Statistics. Such statutory specificity effectively precludes the involvement of other resources which might be more capable of assisting in such a process.

4. Preemption of BIA Reorganization

The Bureau of Indian Affairs is presently undergoing an extensive investigation by the Task Force on Reorganization of the BIA, established by the Secretary of the Interior. The task force includes tribal, BIA, and other federal representatives, and will be considering recommendations from the American Indian Policy Review Commission and other studies.

HR 9810 assumes that reorganization of BIA education services is desirable and that it should be accomplished by centralizing all authority for education in the Bureau's Office of Indian Education. This reorganization would result in the diminution of authority in the BIA area offices. Such a shift will seriously affect tribes and other education programs for Indians throughout the United States.

If such reorganizations are to be effected, they should be considered after tribal input has been received and after the recommendations of the Reorganization Task Force have been presented and analyzed. Such an issue is not appropriate for legislative action at this time. Congressional consideration of HR 9810 can reasonably be seen as preempting the administrative process which has been established and as ignoring the opportunity for meaningful tribal input. Packaging such reorganizational "reforms" under the title of an "Indian Basic Education Act" provides little insight into the actual nature of the proposal, and further inhibits the likelihood of establishing constructive reforms.

5. Segregating Indian Education from Other Social Services

Educational services do represent a significant priority for Indian tribes and communities, and HR 9810 seeks to emphasize the importance of this concern. However, HR 9810 proposes to create a separate federal bureaucracy within the BIA to address education. The result of this proposal would, arguably, focus increased attention on Indian education.

But HR 9810 would also reduce the opportunity for effective planning and coordination among education and other social services by removing the area offices' responsibility for helping to coordinate services for Indian tribes and individuals. Administrative reorganizations of the type envisioned by HR 9810 provide no guarantee of effecting improved educational services and promote the disintegration of coordinated human services programs. Instead, accountability must be expected at the tribal government level, with assistance and support from the BIA and its personnel at all levels. HR 9810 proposes its reforms from a narrow educational perspective which, in large part, fails to meet the needs, or recognize the role, of Indian tribes as general purpose governments.

6. HR 9810 Fragments Educational Resources Among Federal Agencies

Federal Indian education responsibilities are presently shared by the Bureau of Indian Affairs and the Department of Health, Education and Welfare. For example, the BIA is charged with coordinating Johnson-O'Malley programs while HEW is responsible for administering the Indian Education Act of 1972. HR 9810 does not address this fundamental issue and, instead, reinforces the dual authority of the respective agencies.

In part, the historical differences between the two agencies' responsibilities can be attributed to the differing philosophies underpinning each agency's involvement in Indian education. Whereas the BIA is charged with administering the federal government's trust responsibility with Indian tribes, HEW has been granted authority to administer programs for Indians, particularly in the area of education, on the basis of individual need. HEW programs, as a result, have tended to be supplementary or remedial.

HR 9810, by establishing a new federal initiative for Indian basic education, further obscures the traditional roles of the agencies. In some respects, the proposal appears to provide for coordinative mechanisms between the two agencies. Unfortunately, however, by using Impact Act as the vehicle for increasing federal basic education support for Indians, HR 9810 has taken the relatively easier approach of continuing this program in HEW, rather than recommending transfer of this responsibility to the BIA. Unlike other HEW programs, however, HR 9810's amendments to PL 874 are intrinsically related to tribal governments and Indian students living on a reservation. By maintaining HEW authority over this new endeavor, HR 9810 can be seen as reducing the authority of the BIA to provide basic education services to Indians as a part of the federal government's trust responsibility to Indian tribes.

SUMMARY

For these reasons, the Confederated Tribes of the Warm Springs Reservation of Oregon believe that HR 9810 should not be approved in its present form, and would recommend the deletion of sections 3-21 from the proposal and the passage of the bill with the amendments proposed in the following section of this memorandum.

B. AMENDMENTS TO SECTIONS 2 AND 6 OF HR 9810

1. General Observations

Section 2 of HR 9810 would establish that monies available to a school district for Indian students should be applied to their education to insure that they receive an adequate basic education. Historically, impact aid funds that were provided because of Indian students in a school district have been applied to the general operating budgets of the district, and few, if any, direct services for Indian students have occurred. (This observation would not necessarily be applicable to districts which serve Indian students predominantly and/or which are controlled by Indian tribes or organizations).

HR 9810 would alter the general formula used in allocating PL 874 (Impact Aid) funds, and would dedicate the funds for certain Indian students to their education. The bill requires an eligible district to adopt a basic education plan for Indian students, and provides for tribal and community input into the planning process.

In Oregon, the changes in PL 874 envisioned in HR 9810 would result in a considerable net increase in funds available for Indian education in the state. For example, it is estimated that the proposal would result in the Jefferson County School District receiving over twice as much money in HR 9810 funds for Indian students residing on the Warm Springs Reservation as it receives presently for all students under PL 874. Under HR 9810, the district would also continue to receive its entitlement for other PL 874-eligible studnets.

There is a great need for increased financial assistance to meet the basic educational needs of Indian students, and HR 9810 proposes modifications to PL 874 to accomplish this. Among the major issues which could be addressed with these basic education funds are: 1) reducing teacher/student ratios; 2) increasing school health counselors and services; 3) providing better transportation facilities; 4) establishing individual students' educational goals; 5) providing better in-service training for school staff; 6) improving early childhood education opportunities; 7) establishing effective community education programs; and 8) developing specialized curricula to generate student interest in learning.

To accomplish the goals of improving basic education services for Indians and to complement existing tribal/state/federal educational relations, however, several refinements of sections 2 and 6 of HR 9810 are necessary. The following section of this memorandum presents these recommendations.

2. Recommended Amendments to Sections 2 and 6

a. Definition of "Basic Education"

HR 9810 contains no definition of "basic education" and establishes only minimal direction on what components of a school's curriculum could be so considered. The proposal should define basic education to be that which the affected tribe(s) and school district(s) determine it to be, consistent with tribal, district, and state policies.

b. Definition of "Indian Children"

HR 9810 should define "Indian children" in subsection (f)(1) as those children of compulsory school age who are recognized as Indians under the definition in PL 93-638.

c. School District Eligibility

HR 9810 should eliminate the confusing criterion in subsection (f)(1) that to be eligible for receiving funds a district is to be located "on or in close proximity to an Indian reservation," because the satisfaction of the other eligibility criteria should be sufficient.

d. Tribal Involvement in Basic Education Planning

1. Subsection (f)(2)(C) should be extensively amended to eliminate the requirement of receiving the Commissioner's approval of the basic education plan, but to require the Commissioner's acceptance of the plan if it has been adopted by the tribe(s) and district(s).

2. Subsection (f)(2)(D) should be amended to require approval of the application by the governing body of the tribe or its authorized designee.

3. Subsection (f)(2)(E) should be deleted because unless the tribal council(s) and the school district(s) agree to apply for funds, no additional funds to implement the basic education plan should be awarded.

e. Evaluation of Basic Education Programs

1. Subsection (f)(2)(F) should be amended to require that the Commissioner report on the evaluation findings from each district and/or tribe, but not that the Commissioner be responsible for evaluating each program.

2. Subsection (f)(2)(C) should be further amended to require that each plan contain an evaluation component that can be used to assess the effectiveness of the plan and its implementation.

f. Continuance of Funding Over Tribal Objection

1. Subsection (f)(2)(G)(iii) should be deleted.

2. Subsections (f)(2)(H) and (I) should be deleted.

g. Definition of Basic Education Plan

Section 2(a)(2) should be amended to change the definition of "plan of basic education" in subsection (k)(5) to read as follows:

> ". . .'plan of basic education' means a plan for educational studies which best fulfills the academic, vocational, and social growth requirements of the students in attendance at schools of the local educational agency."

h. Definition of Indian Tribe as Local Educational Agency

Section 6 should be amended to read as follows:

> "Notwithstanding any other provision of law, any Indian tribe which operates any school for its children shall be deemed to be a local educational agency for purposes of section 303(a) of the Indian Elementary and Secondary School Assistance Act (title III of Public Law 874, Eighty-first Congress) and for purposes of section 3(f) of Public Law 874, Eighty-first Congress."

A draft revision of HR 9810 incorporating these amendments is attached to this memorandum.

INDIAN BASIC EDUCATION ACT

(HR 9810)

A bill to amend Public Law 875, Eighty-first Congress, to provide for the basic education of Indian children.

BE IT ENACTED BY THE SENATE AND HOUSE REPRESENTATIVES OF THE UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED, That this Act may be cited as the "Indian Basic Education Act."

AMENDMENT TO PUBLIC LAW 874, EIGHTY-FIRST CONGRESS

Sec. 2. (a)(1) Effective with respect to fiscal years beginning on or after the date of the enactment of this Act, section 3 of the Act entitled "An Act to provide financial assistance for local educational agencies in areas affected by Federal activies, and for other purposes" (Public Law 874, Eighty-first Congress; 20 U.S.C. 238) approved September 30, 1950, is amended by redesignating subsection (f) as subsection (i) and inserting after subsection (e) the following:

"Entitlements for Indian Children

"(f)(1) In lieu of that portion of entitlements authorized by section 3(a) which is attributable to Indian children determined for purposes of this section, the Commissioner shall, subject to paragraphs (2) and (3), make a payment for each fiscal year to each local educational agency in an amount equal to the product of the average per pupil expenditure of such agency for such year multiplied by the number of Indian children who--

"(A) were in average daily membership at the schools of such agency,

"(B) resided on Indian lands as described in clause (a) of section 403(1), or on land held by an Indian tribe and which is exempt from State or local taxation, except where the land is so exempted by State or local action, while in attendance at such schools, and

"(C) were provided a free public education by such agency during such year.

"(2)(A) Payments under this subsection shall be made only to local educational agencies which have submitted, within one year after the date of the enactment of the Indian Basic Education Act, or, where local educational agencies are formed after such date of enacement, within one year after their formation, a plan of basic education for Indian students which has been accepted in accordance with subparagraph (C) and which operate such plan. The Commissioner shall have the authority to waive this one-year limit where he finds good cause.

"(B) Nothing in this subsection shall be interpreted as encouraging the creation of separate or segregated programs for the basic education of Indian students, except that Indian students shall be permitted to enroll in bilingual programs to the extent required by need.

"(C) The Commissioner shall accept any plan of basic education for Indian students submitted by a local educational agency eligible under paragraph (1) only if such plan--

"(i) is formally accepted and endorsed by the designated representative of each tribal council of any Indian tribe whose children are to be served by the plan,

"(ii) provides, in a manner to be determined by regulation, for active solicitation by the agency of the views of the Indian community to be served by the plan with respect to the needs of the Indian students to be served,

"(iii) provides education for Indian children which is not less than the standard education program of the State and the school district in which the agency is located for students of the same age and grade level,

"(iv) provides such services as the agency determines to be necessary, including transportation, counseling, and health care, which are at least equivalent to those provided to non-Indian children by the State and school district in which the agency is located, and

"(v) covers a period of not more than three years and affords adequate opportunity for periodic review by all parties, including a formal procedure for evaluating and reporting on the progress in implementing the plan.

"(D) The Commissioner shall make payments under this subsection only upon an application therefor at such time and in such manner as the Commissioner shall by regulation require, when such application is signed by the local educational agency and the designated representative of each tribal council of any Indian tribe whose children are to served under the application.

"(E) The Commissioner shall carry out a program of evaluation of all plans accepted under subparagraph (C), and shall report the results of such evaluation to the Congress as a part of the annual evaluation report under section 417 of the General Education

Provisions Act and shall, within a maximum of thirty months after the date of enactment of the Indian Basic Education Act, submit to the Congress a detailed report on this program, along with recommendations for improvement.

"(F) In the event that an Indian tribe has established a school, or is having the Bureau of Indian Affairs provide education services, any public school which has been affected by withdrawal of students resulting from such action may submit an amended count of the number of students for which it is eligible to receive funds under this Act at such time as the Commissioner shall determine by regulation, if such time determined will provide adequate opportunity to reflect student population changes that result from students' electing to continue in the local educational agency program or from students' electing to return to the local educational agency program from the tribal or Bureau of Indian Affairs school.

"(G) The President shall submit (by March 31 of each year) a budget amendment to Congress which will transfer program moneys from the Department of Health, Education, and Welfare to the Department of the Interior for schools established by an Indian tribe or by contract with the Bureau of Indian Affairs.

"(g) Notwithstanding paragraph (2) of section 5(d) of this Act, funds made available under this subsection may be considered as local resources in the calculation of the amount of State aid to a local educational agency for purposes of equalization, except that such funds may be so considered only in proportion to the share that local revenues covered under a State equalization program (whether or not such program otherwise qualifies for purposes of of section 5(d)(2)) are of total local revenues.

"(h) Nothing in subsections (f) and (g), which are based upon the special relationship between the United States and Indian Nations, shall be deemed to relieve any State of any duty with respect to citizens of that State.".

(2) Effective with respect to fiscal years beginning on or after the date of the enactment of this Act, section 3 of such Public Law 874, Eighty-first Congress, is further amended by adding at the end thereof the following new subsection:

"(k) For purposes of subsection (f), the term--

"(1) 'average per pupil expenditure' means the aggregate current expenditure, during the second fiscal year preceding the fiscal year for which the computation is made, of the local educational agency divided by the aggregate number of children in average daily attendance for whom such agency provided free public education during such second preceding fiscal year;

"(2) 'Assistant Secretary' means the Assistant Secretary of the Bureau of Indian Affairs;

"(3) 'Indian reservation' has the meaning given that term under regulations of the Bureau of Indian Affairs established for purposes of the Act entitled 'An Act authorizing appropriations and expenditures for the administration of Indian Affairs, and for other purposes'; approved November 2, 1921 (42 Stat. 208; 25 U.S.C. 13; commonly referred to as the 'Shyder Act');

"(4) 'Average daily membership' means the average daily number of students officially enrolled during the school year;

"(5) 'Basic education' means those components of a local educational agency's program which the agency and Indian tribe or tribes whose members are served by the agency determine are necessary to provide or enhance fundamental educational skills, consistent with state, agency, and tribal policies.

"(6) 'Plan of basic education' means a plan for educational studies which best fulfills the academic, vocational, and social growth requirements of students in attendance at schools of the local educational agency.'.

(b) Effective with respect to fiscal years beginning on or after the date of the enactment of this Act, section 5(c)(1) of such Public Law 874, Eight-first Congress is amended--

(1) by striking out "which is entitled to a payment under section 2" and inserting in lieu thereof "which is entitled to a payment under section 2 and section 3(f)"; and

(2) by striking out "under that section for such fiscal year" and inserting in lieu thereof "under either such section for such fiscal year".

Sec. 3. Notwithstanding any other provision of law, any Indian tribe which operates any school for its children shall be deemed to be a local educational agency for purposes of section 303(a) of the Indian Elementary and Secondary School Assistance Act (title III of Public Law 874, Eighty-first Congress) and for purposes of section 3(f) of Public Law 874, Eighty-first Congress."

Mr. BLOUIN. Mr. Reuben Snake, Chairman of the Winnebago Tribal Council will be our next speaker.

Is Mr. Neil Morton, director of education programs of the Cherokee Nation here yet?

Mr. Snake, would you proceed, please?

[Prepared testimony of Reuben Snake follows:]

TESTIMONY OF THE WINNEBAGO TRIBE OF NEBRASKA SUBMITTED BY REUBEN A. SNAKE, JR., CHAIRMAN

Mr. Chairman and distinguished members of this committee, my name is Reuben A. Snake, Jr., Chairman of the Winnebago Tribe of Nebraska. I thank you for the opportunity to address this committee. I have only been in this position since November 15, 1977 and have been out of contact with National Indian Education issues for over a year.

I have not had the opportunity to extensively review this Bill but in preparing this testimony, I find that it is a very complex Bill with many facets to consider. There are facets that we agree with and facets that we disagree with and in which we would recommend changes. Also there are facets that would affect the Winnebago Tribe differently than it would other tribes.

The following is our summary and recommendations.

We are in agreement with the methods of payments based on the average daily membership equal to the product of the average per pupil expenditure of such agency for such year multiplied by the number of Indian children. However there is a need for clarification on how the per pupil expenditure is going to be formulated. For example, there is a Bill in the Nebraska State Legislature which would allow only teachers salaries and instructional costs to be used in computation of per pupil cost. If this becomes Nebraska law and funds were calculated on this basis, it would have a serious detrimental effect upon our school and other schools in Nebraska educating Indian children. We would recommend a uniform calculation of the determination of per pupil expenditure nation wide. We would also recommend a clarification of the term "Indian" as it is used in this Bill.

We would recommend that Section 2(c) (i) be amended to read: provides education for Indian children to be not less than the standard education program as provided by nationally recognized regional accrediting associations. (i.e. North Central Accreditation Association)

Amend Section 2(c) (iv) to read: is formulated with the participation of the designated representative of each tribal council of any Indian tribe whose children are to be served by the plan, provided that such participation of any tribe is not deminimus, and has not been formally rejected by any such designee. We have seven tribes represented at the Winnebago School of which 84 per cent of the students are Winnebago Indian.

We strongly disagree with the equalization portion of the Bill (page ten line one through nine). This would just exchange federal dollars for state dollars with no benefits to the education of Indian children.

We are generally against the Bureau of Indian Affairs reorganization section of this Bill. Forrest Gerard, the Assistant Secretary for Indian Affairs have convened a task force on B.I.A. reorganization. Mr. Gerard has promised full consultation with the tribes in reference to this reorganization. We cannot understand why the education services of the B.I.A. should be pulled out and legislated for separately from the rest of the B.I.A. We urge you to delay action on the reorganization section of this Bill until such time as Mr. Gerard's reorganization efforts can be sufficiently evaluated.

An issue of great importance to our school and schools like ours across the nation (Indian controlled and Indian enrollment in excess of 70%) is that we have a unique situation that has never been addressed by the B.I.A. or this legislation. We have the mechanism for our self-determination in the educating of our children already spelled out in the P.L. 93-638 regulations. What our type of schools need is the continuation of Johnson O'Malley operational support funding. If Congress would appropriate the amount of money our schools would receive under this legislation to the Bureau of Indian Affairs budget for J.O.M. operational support, we would have the necessary control and flexability to adequately educate our children in the manner that we determine to be beneficial. The Winnebago School is one of some 25 school districts in the United States in this catagory educating over 20,000 Indian children.

We have not had the time nor have we been provided the necessary education about the Bill to provide you with a detailed testimony. Since this legislation affects so many different Indian communities and schools in different ways, I sincerely hope you will consider all the ramifications this legislation will have upon Indian children.

As this legislation progresses through the many changes that I see forthcoming, we will continue to educate ourselves and seek advice on this Bill so that we will be able to further provide you with detailed recommendations.

I thank you for your concern for the education of Indian children and the opportunity to provide input to such important legislation.

STATEMENT OF REUBEN SNAKE, CHAIRMAN, WINNEBAGO TRIBAL COUNCIL, NEBRASKA

Mr. SNAKE. Mr. Chairman and distinguished members of this committee. My name is Reuben A. Snake, Jr., chairman of the Winnebago Tribe of Nebraska. I thank you for the opportunity to address this committee.

I have only been in this position since November 15, 1977, and have been out of contact with national Indian education for over a year. I have not had the opportunity to extensively review this bill, but in preparing this testimony I find that it is a very complex bill with many facets to consider.

There are facets that we agree with and facets that we disagree with, in which we would recommend changes. Also there are facets that would affect the Winnebago Tribe differently than it would other tribes. The following is our summary and recommendations.

We are in agreement with the methods of payment based on the average daily membership equal to the product of the average per pupil expenditure of such local education agency for such year multiplied by the number of Indian children.

However, there is a need for clarification on how the per-pupil expenditure is going to be formulated. For example, there is a bill in the Nebraska State Legislature which would allow only teachers' salaries and instructional costs to be used in computation of per pupil cost.

If this becomes Nebraska law and funds were calculated on this basis, it would have a serious detrimental effect upon our school and other schools in Nebraska educating Indian children.

We would recommend a uniform calculation of the determination of per pupil expenditure nationwide. We would also recommend a clarification of the term "Indian" as it is used in this bill.

We would recommend that section 2(c)(i) be amended to read:

> Provides education for Indian children to be not less than the standard education program as provided by nationally recognized regional accrediting associations, (i.e., North Central Accreditation Association).

Amend section 2(c)(iv) to read:

> Is formulated with the participation of the designated representative of each tribal council of any Indian tribe whose children are to be served by the plan, provided that such participation of any tribe is not deminimus, and has not been formally rejected by any such designee.

We have seven tribes represented at the Winnebago School at which 84 percent of the students are Winnebago Indians.

We strongly disagree with the equalization portion of the bill, page 10, line 1, through line 9. This would just exchange Federal dollars for State dollars with no benefits to the education of Indian children.

We are generally against the Bureau of Indian Affairs reorganization section of this bill. Forrest Gerard, the Assistant Secretary for Indian Affairs, has convened a task force on BIA reorganization. Mr. Gerard has promised full consultation with the tribes in reference to this reorganization.

We cannot understand why the education services of the BIA should be pulled out and legislated for separately from the rest of the BIA. We urge you to delay action on the reorganization section of this bill until such time as Mr. Gerard's reorganization efforts can be sufficiently evaluated.

An issue of great importance to our school and schools like ours across the Nation—Indian controlled and Indian enrollment in excess of 70 percent—is that we have a unique situation that has never been addressed by the BIA or this legislation.

We have the mechanism for our self-determination in the educating of our children already spelled out in the Public Law 93-638 regulations. What our type of schools need is the continuation of Johnson-O'Malley operational support funding.

If Congress would appropriate the amount of money our schools would receive under this legislation to the Bureau of Indian Affairs' budget for JOM operational support, we would have the necessary control and flexibility to adequately educate our children in the manner that we determine to be beneficial. The Winnebago School is one of some 25 school districts in the United States in this category educating over 20,000 Indian children.

We have not had the time nor have we been provided the necessary education about the bill to provide you with a detailed testimony. Since this legislation affects so many different Indian communities and schools in different ways, I sincerely hope you will consider all the ramifications this legislation will have upon Indian children.

As this legislation progresses through the many changes that I see forthcoming, we will continue to educate ourselves and seek advice on this bill, so that we will be able to provide you with further detailed recommendations.

I thank you for your concern for the education of Indian children and the opportunity to provide input to such important legislation.

Mr. Blouin. Thank you very much.

Is Mr. Neil Morton here yet?

We will proceed, then, to questioning at this point.

We thank you both, gentlemen, for your comments. I know that while we were in Seattle about a month ago, Mr. Clements had several concerns about this legislation. I appreciate your coming here to express them.

I have one question, just to begin, Chairman Snake, do you see any clash or contradiction in philosophy, if you will, between the direction, generally, in this bill and the Indian Self-Determination and Education Assistance Act?

Do you view them, generally, assuming you can find some way to remedy the Winnebago Tribe's problems that you are mentioning, do you find them compatible?

Mr. Snake. As I stated at the beginning of my testimony, I have been out of contact with significant Indian education issues over the past year, and I have not had a chance to really compare these two elements.

But we are deeply concerned about the fact that it seems that this particular category of schools that our tribe is in, that is public school districts with significant Indian population, is going to be drastically affected by this legislation as it now stands.

Mr. BLOUIN. They are going to be drastically affected, and the effect, whether positive or negative, depends on the State funding programs within each given State. That has been the hardest feature to try to work out. How do we channel funds through to these Indian tribes on a foundation plan, or a basic funding plan in States where they just turn around and reduce that amount of money from their State formula by a State law and end up, as you so aptly put it, with just a switch of funds, with no more dollars through to Indian education.

I agree with your concern as it affects certain States. I think that there are two or three of them in the country that we found, that are particularly affected that way.

Do you have a specific idea as to how we correct that?

Mr. SNAKE. Again, referring back to our testimony here, if the funding level that is proposed through this formula that you are putting forward in the bill, if that could be applied to the existing Johnson-O'Malley regulations in the schools of our type, they would be adequately funded.

Mr. BLOUIN. We would have problems in the other States, if we went that route. I want to make sure that I understand your basic concern.

If we can find a way around that funding tradeoff problem, then your biggest fear of the bill is removed. Is that right?

Mr. SNAKE. That is right.

Mr. BLOUIN. Can we, for one moment, get into the reorganization——

Mr. QUIE. Before you leave the other, would you yield?

Mr. BLOUIN. Yes.

Mr. QUIE. Mr. Snake, 874 money is basic education money. There is basic education money in Johnson-O'Malley, but there is a phase out of it, and only those schools which have 70 percent or more Indians now get a basic grant from JOM.

As we have looked at it, we have perceived another thing, that under some recent decisions Indians do not have to pay State income tax or State sales tax. I recognize that if you are off someplace else, making purchases, probably you are paying some sales tax without realizing it.

That being the case, and since Indians are different from anyone else due to the special treaty arrangements with them and are considered impact aid students under H.R. 9810, both the local money which is 874 money plus the State money would be coming through this new proposal that we have.

So this would mean, on that basic money, both what had heretofore been 874 money, which Indians have no voice in at all, plus the State money, which came in under the equalization aid program, which the Indians have no voice in now, they could have a voice on how that money is being used.

It seems to me that the option you want is to continue just to have the local money, the equivalence of that local money coming under 874, and have a voice in that, or both the State and the local money. I don't think that there is any way that we can say that the Federal Government is going to fund both the local share and the State share of education, and then the State continue to give the State share as well. That would be a double financing of the State share.

Now, I would think, before you answer that, from a school board's point of view, in a non-Indian controlled school board school, they would prefer just having the local share money and the 874 money coming in, rather than the State and local because it is a lesser amount of money.

Take Minnesota, using the rule of thumb, in the school districts that are heavily Indian, 70 percent of the morey comes from the State, and probably about 20 percent comes from the local government. Then there are some other Federal moneys that come in under other types of programs.

So that is really what I would ask you, if you have followed me through that long question.

Mr. SNAKE. I think in our part of the country, we are in full agreement with the rest of our Indian brothers and sisters around the country that any kind of legislation which would allow us more control over funds and programs, is what we are after.

We are in a particularly unique situation right now in that Johnson-O'Malley money is currently frozen. It appears as though, if the freeze remains in effect, and this legislation is supposed to be the answer to that and it takes another year or 1½ years to come into realization, there are two or three school districts on our reservation that are going to have to shut their doors.

Winnebago itself will be seriously affected by the loss of Johnson-O'Malley money, while we are sitting around waiting on this. I don't know what we will do for 1 year to 18 months with two of our public schools.

Mr. QUIE. What will you do, if we don't pass this?

Let me ask, Mr. Clements. I have not gone through the proposed changes that you have made to section 2, but I assume that you prefer that we increase the voice of Indians in the use of 874 money.

Mr. CLEMENTS. Definitely.

Mr. QUIE. Then on the second part, you feel that we ought to fund 874 the way it is now, or do you think that we ought to increase it for Indians so that we would pay the State share of education as well under it?

Mr. CLEMENTS. If 874 funds are to be utilized—Let me refer back. The 874 funds are going to be utilized for basic education. Basic education, right now, due to our trust responsibility status with the Federal Government, is primarily in the jurisdiction of the Bureau of Indian Affairs, when Federal funds are involved.

So we would see that the funds for basic education be channeled through the Bureau of Indian Affairs. We would also see benefits in increasing——

Mr. QUIE. Could I interrupt you.

When an Indian student from a reservation attends a public school.

Mr. CLEMENTS. Yes.

Mr. QUIE. Then there is no BIA transfer money now, is there? It is just 874 money in that case.

Mr. CLEMENTS. Yes.

Mr. QUIE. Now in that regard, I will agree with you, under the BIA schools and the contract schools. I am talking about reservation Indians going to public schools with 874 money. Nobody on the reservation has any voice in that at all, unless they get themselves elected to the school board.

Mr. CLEMENTS. Yes. But the way the calculation occurs for who is eligible for 874 funds is done by the Bureau.

Mr. PRESSLER. If the gentleman would yield?

Mr. QUIE. Yes.

Mr. PRESSLER. Let me ask, under your proposal, under 874 funds, how would control be changed from the way it presently is when you have reservation Indians attending public schools?

Mr. CLEMENTS. If the amendment that we are suggesting is adopted, the tribal council will approve formally the 874 plan.

Mr. PRESSLER. This would mean that the tribal council would have essential control or ultimate control, even when there is only a small number of Indian students in the classroom. They would have ultimate control?

Mr. CLEMENTS. They would have approval. They would have to approve the plan before it would be submitted, both not just one or the other.

Mr. QUIE. If you would yield.

By the same token, the local school board would have an equal voice?

Mr. CLEMENTS. Yes. They both have to approve. If they don't, then there is no application.

Mr. BLOUIN. And no process for arbitrating it out. No signoff, no money. If either sides says no, then it is over with.

Mr. CLEMENTS. Yes, that is the way it is going to be at the local level.

Mr. PRESSLER. If they cannot reach agreement, what happens to that school in that year?

Mr. CLEMENTS. They don't get the money for that year. They have to work it out.

Mr. PRESSLER. Is there a period of time?

Mr. CLEMENTS. By the next year, at least.

Mr. BLOUIN. If I may throw this in. What would happen to the educational responsibility of the children involved, the Indian children? Do you have a suggestion for a backup in that?

Mr. CLEMENTS. The way 874 is functioning, 874 funds go into the general funds of the school district. So our youngsters are exposed to the same basic education program that every other youngster is getting. So we are not getting anything any different than any other youngster now. I don't see anything happening.

Mr. QUIE. If you would yield.

Mr. BLOUIN. All the school has to do is not sign the plan that every Indian tribal council that has children in that school has agreed upon. If the school vetoes it, they can go back to the way it is now without any Indian input, status quo on all the other sources of funding that they have, and have no responsibility toward funding those Indians.

Mr. CLEMENTS. The money they have now goes into a general fund. It does not go into basic education.

Mr. BLOUIN. What would be the motivation for a school board to respond to it?

Mr. CLEMENTS. The increased funding.

Mr. BLOUIN. They will not get the funding unless they sign the plan.

If you have a situation where you have a pretty compatible school board, which exists in some areas of the country, where there is a large Indian population, that is fine. I think in most instances they are going to work it out.

If you get into a situation where you have a hostile school board, which says: "Absolutely not. I don't care how important this is, we are not going to take it." Then the Indians have absolutely no recourse.

Mr. CLEMENTS. Yes. If the school district does not—we are citizens of the State, and if the school district would not choose to provide equal education to meet the needs of our Indian students, we would choose to take them into court under the Lau Act, the Desegregation Act.

Mr. BLOUIN. Under the civil rights ruling.

Mr. CLEMENTS. We feel they should be utilizing those 874 funds based on our needs.

Mr. BLOUIN. I don't understand the reluctance to follow a program of Indian input, Indian control over the flow of those dollars under a full funding mechanism with a system that will allow them to work out their problems, and work to bring the moneys in there, which will guarantee that it will be directed toward Indian student education, with the ultimate resource in the hands of the Indian tribes themselves.

Mr. CLEMENTS. There are other instances where the school districts, utilizing other Federal funds, have utilized parent advisory boards for the monitoring or the development of the program.

But if the school chooses to select out of the Indian community without utilizing the authorities of the Indian community, the government of the Indian community, we feel that it is absolutely necessary for the governing body of that Indian group to formally accept because the school district utilized individuals from the community at the expense of not getting sanctions from the governing body.

In other words, they pick out who they want.

Mr. QUIE. If the gentleman would yield.

One comment that you made as to way the school board would sign off is because there would be an increase in the amount of money. I don't look at this as bringing in an increased amount of money in every instance. There are some schools that have raised the question as to whether they would get a lesser amount. I believe that we ought to make certain that they don't get a lesser amount.

When we offer the amendments, we ought to make sure of that. But I think that we ought to approach it as to whether you should have control over both, just the local share of money or what was the local and State share money included for basic education.

We could go two ways. I don't know whether we are going to be able to sell this to our colleagues. The people are raising questions. We take the responsibility away from the State with this formula of 874, and the States have the responsibility for educating Indian children the same as they have for other children.

The reservation children don't pay any income taxes like non-Indian children do. Therefore, we ought to be providing it here. It does add a voice to the program on the part of the Indians.

So I think that is really what the question is. You have to decide on what extent, how much of that money the Indians will have a voice in——

Mr. CLEMENTS. The 874 money, we want to have a voice in its total utilization.

Mr. QUIE. The total utilization, but we can leave it just as it is now, then you have a voice in the amount of money that goes in presently. The States that have heavy State aid to education——

Mr. CLEMENTS. Is that State money also, that is matching money you are talking about, that is the doubling whatever it is going to be.

Mr. QUIE. In some States it is high. In some States there will be a substantial amount. Then if there is a low State aid, it would not be as great.

Mr. CLEMENTS. In that instance, I think we would want—then you are talking about three, local education agency, you are talking about a State department of education——

Mr. QUIE. We are not dealing with the State department of education. We are dealing with the local agency, because 874 money under title 2 goes to the local agency. The State agency does not have any voice in it.

Mr. CLEMENTS. I am getting confused.

Mr. QUIE. Like you confused me suggesting the BIA has a voice in 874. I thought that was strictly an OE program, which I think it is.

Mr. BLOUIN. That is the way I read it also.

I have one other question with regard to the tribal contract provisions of the bill. As I read your proposed bill, and your testimony, you are opposed to giving the tribes the ultimate power to form contract schools for their students who are now in public schools.

Mr. CLEMENTS. I don't think that my testimony says that.

Mr. BLOUIN. You strike that provision of the bill that gives——

Mr. CLEMENTS. They can contract if they are a Bureau school only. They can contract to pull them out of the Bureau school, and have a contract. But once the Bureau school is gone, and they have a public school, they cannot contract. They don't have that option at all.

Under the present structure, once they have made the decision, whether it was their choice or not, to move into the public school with their population, there is no reversal. There is no right to contract after that has been performed.

Mr. BLOUIN. I think that is a misunderstanding.

Mr. CLEMENTS. I think it is a misunderstanding. But we wanted to deal with the section 2 as a separate item from the 3 to 21 because that got into BIA kind of matters, and we were concerned about that.

Mr. BLOUIN. Thank you.

Mr. QUIE. Mr. Chairman.

Mr. BLOUIN. Mr. Quie.

Mr. QUIE. Mr. Clements, you make a comment that we should only adopt legislative policy in areas where there is no administrative authority.

Why is it that you prefer going through administrative change, rather than getting your ideas across in legislation. It seems that it would have more permanence in legislation.

Mr. CLEMENTS. That is the fear. We feel that administratively, it is easy to change. If it becomes a statute, it is more difficult.

Mr. BLOUIN. I have only been around Indian education for a little over a year, but I have not found that it has changed. Bureau regulations that pertain to Indian education have not changed in 30 years, or 20 years at least. It does not sound very easy.

You may have a very excellent person in that position today, Forrest Gerard, who is a very competent and knowledgeable person, but he will not be there forever. What if the next person comes and changes all the regulations back to the way they were?

If the legislative changes that we are proposing parallel to a great degree the philosophy of the present BIA, would you still have this great a concern?

Mr. CLEMENTS. It would be fixed. We would be operating a program by statute.

Mr. QUIE. Yes. It seems to me to be preferable.

Let me give you an example. On the Johnson-O'Malley formula now, most of the Indian tribes supported one formula and the BIA picked another one because there is some political clout in Alaska in the Senate. That really bothers me, that the Bureau operates that way.

It seems to me that all of the tribes throughout the Nation ought to be able to come to their Representatives and get the change that meets their needs. If the Bureau had a history of being responsive to Indian needs, then I would be all for it. But they don't have that kind of reputation, and they have not demonstrated it yet.

Mr. CLEMENTS. I guess, getting beyond that, the trust responsibility by having dual authority, basic education being administered both by the Office of Education, which also does not have that great a history of meeting our Indian needs and we are concerned about that——

Mr. BLOUIN. We are not really giving the BIA anything new, or OE anything new. The Impact Aid Act is OE now, and we are leaving each of them in their area.

The other question that you raised is that we are fragmenting the Bureau by having a wide authority in education. My belief is that education is so important that it should not be disrupted, as it seems to me it has been in the BIA, by interests in other areas which have a tendency to put money into the other areas, instead of education.

I think that you would need to know what money is going to go into education, and be able to come in and really lobby for the increased money in education. So far you have not been able to get hold of the Congress. The lobby for that in the past, except for some people getting some additional money for special boarding school, but that is really the non-Indians' economic interest.

Thank you, Mr. Clements.

I have one question for Chairman Snake, with regard to the American Indian Policy Review Commission. Do you think that they are on the right track; would you tend to support the kinds of revisions that they may come up with?

Mr. **Snake.** I was the Chairman of the Task Force on Alcohol and Drug Abuse, and I spent a lot of time there and did not get a chance to review all the task force reports. There has been, nationally, quite a bit of controversy over the education task force.

Mr. **Blouin.** Could I ask you to, in the next few weeks, if possible, to review the Commission's recommendations and if you could respond back we would be happy to insert it as part of the record.

Much of what we propose follows those recommendations. If it is the opinion of a large number of tribes around the country that it is not in their best interest, then we will make some changes.

Thank you very much.

Are there any more questions?

Then, we will thank both of you for being here with us today. We appreciate it very much.

Mr. **Clements.** I wanted to respond to a question someone asked on the connection of H.R. 9810 and Public Law 93-638.

I think H.R. 9810 is moving toward Public Law 93-638 in decentralization. I think they have different emphasis.

Mr. **Blouin.** Thank you, I appreciate that.

Mr. Melvin Sampson is here, and he will be representing the Yakima Tribal Council.

Mr. Neil Morton, the director of education programs, representing Principal Chief Ross Swimmer of the Cherokee Nation is not here yet.

Mr. Sampson, we have your testimony, and it will be inserted in the record in full. You may read it or summarize it. You are free to proceed.

[The prepared and supplemental statements of Melvin Sampson follow:]

STATEMENT OF MELVIN SAMPSON, YAKIMA TRIBAL COUNCILMAN, BEFORE THE SUB-COMMITTEE ON ELEMENTARY, SECONDARY AND VOCATIONAL EDUCATION OF THE COMMITTEE ON EDUCATION AND LABOR, HOUSE OF REPRESENTATIVES ON H. R. 9810, THE INDIAN BASIC EDUCATION ACT

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

ON BEHALF OF THE YAKIMA TRIBAL COUNCIL, I WISH TO THANK THE COMMITTEE FOR GIVING ME THE OPPORTUNITY TO TESTIFY.

SECTION 2 OF H. R. 9810 WILL PROVIDE DESIRED AND NEEDED PARTICIPATION BY A TRIBAL COUNCIL AND THE INDIAN COMMUNITY IN THE PLANNING AND EXPENDITURE OF 874 MONIES. ALTHOUGH WE STRONGLY SUPPORT THE END RESULT OF SECTION 2, THERE ARE SEVERAL AMENDMENTS THAT WE WOULD LIKE TO PROPOSE FOR YOUR CONSIDERATION.

BASED UPON THE YAKIMA TREATY OF 1855, THE FEDERAL GOVERNMENT HAS A RESPONSIBILITY TO PROVIDE EDUCATION TO YAKIMA INDIANS. AT THE PRESENT TIME SEVERAL FEDERAL AGENCIES ARE INVOLVED IN THE RESPONSIBILITY. IF THE ULTIMATE RESPONSIBILITY WAS PLACED WITH THE PROPER FEDERAL AGENCIES, THE ADMINSTRATION OF THESE MONIES BY THE AGENCY AND THE RECIPIENT WOULD BE ENHANCED. THEREFORE WE PROPOSE THAT THE ASSISTANT SECRETARY FOR INDIAN AFFAIRS OF THE DEPARTMENT OF INTERIOR PLAN AND ADMINISTER 874 MONIES UNDER SECTION 2 OF H.R. 9810. THIS PROPOSED AMENDMENT WOULD REQUIRE CHANGING "COMMISSIONER" IN SUBSECTION AND SUBPARTS OF SECTION 2 TO "ASSISTANT SECRETARY FOR INDIAN AFFAIRS".

WE PROPOSE AN AMENDMENT REGARDING THE AMOUNT OF THE PAYMENT AS PROVIDED IN SUBPART (f) (1) OF SECTION 2. THE THREE CRITERIA ENUMERATED IN (f) (1) (A), (B), AND (C) ARE FOR "A" PAYMENTS. CONSIDERATION SHOULD BE GIVEN TO INDIAN CHILDREN WHO LIVE ON OR NEAR A RESERVATION AND HAVE A PARENT EMPLOYED ON FEDERAL PROPERTY OR ARE ON ACTIVE DUTY IN THE UNIFORMED SERVICES. OUR

PROPOSED AMENDMENT WOULD MAKE "B" PAYMENTS A PART OF H. R. 9810. WE PROPOSE TO ADD LANGUAGE TO (f) (1) (B) SO THAT IT WOULD READ AS FOLLOWS:

> (B) resided on Indian lands as described in clause (A) of section 403 (i), or on land held by an Indian tribe and which is exempt from State or local taxation, except where the land is so exempted by State or local action, while in attendance at such schools; or resided with a parent employed on Federal property (i) in whole or in part in the county in which the school district of such agency is located, or (ii) if not in such county, in whole or in part in the same State as the school district of such agency; or had a parent who was active duty in the uniformed services (as defined in section 101 of title 37, United States Code).

THIS PROPOSED AMENDMENT REGARDING "B" PAYMENTS IS THE SAME LANGUAGE AS CONTAINED IN THE LAW AS IT EXISTS (20 U.S.C. §238 (b) (2) (3)).

WE PROPOSE AN AMENDMENT TO f (2) (B) REGARDING ENROLLMENT IN BILINGUAL PROGRAMS. THIS LANGUAGE DOES NOT RECOGNIZE AMERICAN INDIAN LANGUAGES AS A BILINGUAL COMPONENT OF A PROGRAM. THEREFORE WE PROPOSE TO CHANGE THE LANGUAGE SO THAT THE LAST PHRASE OF (f) (2) (B) WOULD READ AS FOLLOWS:

> except that indian studenst shall be permitted to enroll in American Indian language programs to the extent required by need.

THE 'PLAN OF BASIC EDUCATION', (f) (2) (C) AND PAYMENTS UNDER THE PLAN, (f) (2) (D), DO NOT PROVIDE FOR THE POSSIBLE NECESSITY OF CONSTRUCTION UNDER

CERTAIN CIRCUMSTANCES. CONSTRUCTION IS DISCUSSED IN H. R. 9810 ONLY IF THERE IS A REJECTION OF THE PLAN OF EDUCATION, (f) (2) (J). THE 'PLAN OF BASIC EDUCATION' FOR 874 MONIES AS FORMULATED UNDER (f) (2) (C) MAY SHOW THE NECESSITY FOR CONSTRUCTION. THE MECHANISM AVAILABLE TO A LOCAL EDUCATIONAL AGENCY TO PROVIDE FOR NECESSARY CONSTRUCTION ACTIVITES IS A SPECIAL LEVY. THIS MECHANISM IS NOT PRESENTLY AVAILABLE TO INDIAN TRIBES. THEREFORE WE PROPOSE TO ADD A PART VI TO (f) (2) (C) WHICH WOULD BE AS FOLLOWS:

> (VI) There is authorized to be appropriated such sums as may be necessary for the ocnstruction of adequate facilities.

THE 'PARTICIPATION' PROVISION OF (f) (2) (C) (IV) IS SUBJECT TO INTERPRETATION. PARTICIPATION COULD MEAN PARTICIPATION IN ALL PHASES OF THE DEVELOPMENT OF A 'PLAN OF BASIC EDUCATION' OR PARTICIPATION COULD MEAN CONCURRENCE BY THE DESIGNATED REPRESENTATIVE AFTER ALL THE WORK ON THE PLAN HAS BEEN COMPLETED. THEREFORE WE PROPOSE TO ADD LANGUAGE TO (f) (2) (C) (iv) SO THAT IT WOULD READ AS FOLLOWS:

> is formulated with the active and continuous participation of the designated representative of each tribal council of an Indian tribe. . .

THE DEFINITION OF A LOCAL EDUCATIONAL AGENCY IN SECTION 22 SHOULD BE MADE A PART OF THE DEFINITIONS IN SECTION 2 (k) AND THE DEFINITION SHOULD INCLUDE A "TRIBALLY OPERATED SCHOOL". THIS DEFINITION WOULD BE CONTAINED IN (k) (6).

SECTIONS 3 TO 22 OF H. R. 9810 ARE DETAILED AND PERVASIVE. WE REALIZE THAT THERE ARE DEFICIENCIES AND ADMINISTRATIVE PROBLEMS IN THE OFFICE OF

INDIAN EDUCATION, DEPARTMENT OF INTERIOR. IT IS VERY DIFFICULT FOR US TO DETERMINE THE EXTENT OF THESE DEFICIENCIES AND ADMINISTRATIVE PROBLEMS; AND THERE IS THE FURTHER DIFFICULTY FOR US TO DETERMINE THE EXTENT OF THE REMEDY OR SOLUTION TO THESE DEFICIENCIES AND ADMINISTRATIVE PROBLEMS.

SPEAKING AS A COUNCILMAN INVOLVED IN EDUCATION PROGRAMS ON THE YAKIMA INDIAN RESERVATION, WE REALIZE THE VALUE AND NECESSITY OF A COMPREHENSIVE EDUCATION PLAN. A PROCEDURE NEEDS TO BE DEVELOPED SO THAT THE YAKIMA TRIBAL COUNCIL CAN DEVELOP A COMPREHENSIVE EDUCATION PLAN FOR THE YAKIMA INDIAN RESERVATION. THIS PROCEDURE COULD BE MADE APPLICABLE TO ALL INDIAN TRIBES. THE CAPABILITY TO DEVELOP SUCH A PLAN COULD BE WITH AN INDIAN TRIBE OR IF THE TRIBE DOESN'T POSSESS THE CAPABILITY, THE BUREAU OF INDIAN AFFAIRS SHOULD POSSESS THE CAPABILITY TO DEVELOP THEIR COMPREHENSIVE EDUCATION PLANS.

YOUR CONSIDERATION OF OUR PROPOSED AMENDMENT AND COMMENTS IS APPRECIATED. THANK YOU FOR THE OPPORTUNITY TO PRESENT TESTIMONY OF H. R. 9810.

ESTABLISHED BY THE
TREATY OF JUNE 9, 1855
CENTENNIAL JUNE 9, 1955

CONFEDERATED TRIBES AND BANDS
Yakima Indian Nation
POST OFFICE BOX 151
TOPPENISH, WASHINGTON 98948

GENERAL COUNCIL
TRIBAL COUNCIL

March 24, 1978

Advisory Study Group on Indian Education
House Committee on Education and Labor
402 Carmon House Office Building
Washington, D. C.   20515

Dear sir,

Please find enclosed a Statement of the Yakima Indian Nation on H R. 9810. The enclosed Statement supplements a previous statement of the Yakima Indian Nation.

Your consideration of our comments is appreciated.

Sincerely,

YAKIMA INDIAN NATION

Melvin R. Sampson

Mr. Melvin R. Sampson, Chairman
Health, Employment and Welfare Committee
Yakima Tribal Council

ESTABLISHED BY THE
TREATY OF JUNE 9, 1855
CENTENNIAL JUNE 9, 1955

CONFEDERATED TRIBES AND BANDS
Yakima Indian Nation
POST OFFICE BOX 151
TOPPENISH, WASHINGTON 98948

GENERAL COUNCIL
TRIBAL COUNCIL

STATEMENT OF YAKIMA INDIAN NATION

on H. R. 9810

THIS STATEMENT OF THE YAKIMA INDIAN NATION RELATES TO § 3 THROUGH 22 OF H. R. 9810. A STATEMENT ON § HAS BEEN PRESENTED PREVIOUSLY.

THERE ARE TWO CHANGES THAT WE WOULD MAKE TO § 3 (b). ALTHOUGH THE SUBSECTION PROVIDES FOR PARTICIPATION BY 'ORGANIZATIONS CONCERNED WITH INDIAN INTERESTS' WE WANT TO ASSURE THAT TRIBAL GOVERNMENTS PARTICIPATE IN THE STUDIES AND SURVEYS. THEREFORE, WE SUGGEST THAT A PORTION OF § 3 (b) BE CHANGED TO READ AS FOLLOWS:

> . . . . to provide an opportunity for Indian Tribal governments and organizations concerned with Indian interests to participate therein, ...
>
> (suggested change emphasized.)

FURTHER THERE IS AN ADDITIONAL FACTOR THAT WE WOULD ADD AT THE END OF § 3 (b). THE FACTORS THAT ARE LISTED IN § 3 (b) WILL NOT TAKE INTO CONSIDERATION DIFFERENCES THAT MAY EXIST BETWEEN THE STANDARDS FOR THE BASIC EDUCATION OF INDIAN CHILDREN AND STATE STANDARDS. THEREFORE WE SUGGEST THAT AN ADDITIONAL FACTOR BE ADDED TO § 3 (b) AS FOLLOWS:

> the disparity between standards established for basic education of Indian Children and state standards in the State where the school is located.

SECTION 3 (d) ALLOWS THE ASSISTANT SECRETARY TO ALTER THE STANDARDS FORMULATED UNDER THIS SECTION SO THAT 'PROGRAM OF EACH BUREAU OPERATED SCHOOL SHALL BE NO LESS THAN THE MINIMUM STANDARDS REQUIRED FOR ACCREDITATION OF SCHOOLS IN THE STATE WHERE THE SCHOOL IS LOCATED.' WE AGREE THAT THERE SHOULD BE SOME DISCRETION VESTED IN THE ASSISTANT SECRETARY REGARDING THE ALTERATION OF STANDARDS. BUT A SERIOUS PROBLEM ARISES WHEN A BUREAU OPERATED SCHOOL IS LOCATED IN A STATE THAT HAS LOW ACCREDITATION STANDARDS. THE DISCRETION VESTED IN THE ASSISTANT SECRETARY AS PROVIDED UNDER § 3 (d) COULD ALLOW AN ALTERATION BELOW THE STANDARDS DEVELOPED UNDER § 3 (a). WE FEEL THAT THIS WOULD BE AN UNFORTUNATE SITUATION AFTER MUCH EFFORT WILL LIKELY BE INVOLVED IN THE DEVELOPMENT OF THE STANDARDS. WE WANT THE BEST EDUCATION THAT CAN BE PROVIDED IN BUREAU OPERATED SCHOOLS AND THEREFORE PROPOSE TO LIMIT THE DISCRETION OF THE ASSISTANT SECRETARY UNDER § 3 (d). WE SUGGEST THAT THE DISCRETION TO ALTER STANDARDS SHOULD BE LIMITED TO THE STANDARDS DEVELOPED UNDER § 3 (a). WE WOULD ADD THE FOLLOWING PROVISION AT THE END OF § 3 (d).

> Provided that the standards required for each Bureau operated school shall be no less than the standards developed under § 3 (a).

THE CRITERIA FOR DORMITORY SITUATIONS UNDER § 4 INCLUDES 'REQUIREMENTS AS TO ADULT-CHILD RATIOS, NEEDS FOR COUNSELORS, SPACE AND PRIVACY'. WE PROPOSE TO CHANGE ONE OF THESE REQUIREMENTS AND ADD ANOTHER REQUIREMENT. WE PROPOSE TO CHANGE THE REQUIREMENT REGARDING ADULT-CHID RATIOS. THIS REQUIREMENT IS SOMEWHAT VAGUE AND COULD ALLOW THE INCLUSION OF ANY ADULT (i.e. custodians) IN SUCH A RATIO. ALTHOUGH SUCH AN INTERPRETATION MAY NOT HAVE BEEN INTENDED WE WISH TO PROVDE SAFEGUARDS AGAINST IT. THEREFORE THIS RATIO SHOULD BE DESCRIBED AS DORMITORY-SUPERVISORY PERSONNEL TO CHILD RATIOS.

THIS IS SPECIFIC AND PROPERLY DESCRIBES THE RATIO THAT SHOULD BE CONSIDERED. WE PROPOSE TO ADD A REQUIREMENT REGARDING THE QUALIFICATIONS OF DORMITORY PERSONNEL. THE REQUIREMENTS IN § 4 DO NOT CONSIDER APPROPRIATE OR NECESSARY QUALIFICATIONS. THERFORE WE PROPOSE THAT AN ADDITIONAL REQUIREMENT BE ADDED AND THAT IT BE: 'QUALIFICATIONS OF DORMITORY PERSONNEL'.

WE HAVE TWO COMMENTS ON THE FACILITIES CONSTRUCTION PROVISIONS IN Sec. 5 THE RESPONSIBILITY FOR BRINGING 'SCHOOLS, DORMITORIES, AND OTHER FACILITIES' INTO COMPLIANCE IS NOT PROVIDED FOR. THERFORE WE SUGGEST THAT THE BUREAU OF INDIAN AFFAIRS BE RESPONSIBLE FOR INSURING THAT COMPLIANCE HAS OCCURRED. FURTHER, THE APPLICATION OF FEDERAL OR STATE JURISDICTIONAL ISSUES; i.e. IF THE STATE STANDARDS ARE APPLICABLE TO A 'SCHOOL, DORMITORY OR OTHER FACILITIES', THE STATE MAY ARGUE THAT THEIR FEES, INSPECTIONS REQUIREMENTS, LICENSES, ETC., ARE REQUIRED. THERFORE THERE SHOULD BE A PROVISION AT THE END OF § 5 (a) AS FOLLOWS:

> Provided that such compliance shall not be construed as the assumption of jurisdiction by any State.

WE CANNOT SUPPORT THE BUREAU OF EDUCATION FUNCTIONS PROVISIONS CONTAINED IN SECTION 8 AND SECTION 9.

WE SUGGEST THAT THE PRESENT SYSTEM BE MAINTAINED WITH ADMINISTRATIVE CHANGES. THESE CHANGES WOULD INCLUDE A REORGANIZATION WITHIN THE CENTRAL OFFICE; IMPROVED AND EFFECTIVE COMMUNICATION BETWEEN THE CENTRAL OFFICE AND ALL ORGANIZATION LEVELS; INCREASE THE SERVICES PROVIDED BY THE AREA OFFICES; AND CLARIFY THE SPECIFIC ROLES OF EDUCATION PERSONNEL WITHIN THE CENTRAL OFFICE. THESE ADMINISTRATIVE CHANGES WOULD HELP THE EDUCATION PROGRAMS AT THE LOCAL LEVEL.

WE HAVE ONE SUGGESTION REGARDING THE ALLOTMENT FORMULA PROVISIONS IN SECTION 10. WE SUGGEST A CHANGE BY ADDING AT THE END OF SECTION 10 (a)

(3) THE FOLLOWING:

> Provided these services are at least equivalent to these standards established under Section 3 (a).

THIS COMMENT RELATES BACK TO OUR COMMENTS ON SECTION 3 AND OUR CONCERN THAT STATE STANDARDS MAY BE LOWER THAT THE STANDARDS ESTABLISHED UNDER SECTION 3 (a). WE DO NOT SUPPORT THE ESTABLISHMENT OF A FUNDS AS PROVIDED IN SECTION 10 (c). SUCH A FUND WOULD CREATE PROBLEMS BECAUSE THESE FUNDS WOULD NOT BE ALLOCATED.

WE SUGGEST THAT THE PROVISIONS REGARDING EDUCATION PERSONNEL IN SECTION 13 SHOULD BE APPLICABLE TO PERSONNEL IN BUREAU SCHOOLS OR INDIAN CONTROLLED CONTRACT SCHOOLS.

WE SUPPORT THE MANAGEMENT INFORMATION SYSTEM (Section 14), THE BUREAU EDUCATION POLICIES (Section 15) AND THE UNIFORM EDUCATION PROCEDURES AND PRACTICES (Section 16).

WE THANK YOU FOR THE OPPORTUNITY TO PRESENT OUR VIEWS ON H. R. 9810 AND YOUR FAVORABLE CONSIDERATION OF OUR SUGGESTIONS IS APPRECIATED.

Harvey E. Adams

Mr. Harvey E. Adams, Chairman
Education Committee
Yakima Tribal Council

STATEMENT OF MELVIN SAMPSON, YAKIMA TRIBAL COUNCILMAN, EDUCATION COMMITTEE, ACCOMPANIED BY MARTHA YALLUP, DIRECTOR OF EDUCATION, YAKIMA TRIBE

Mr. SAMPSON. Mr. Chairman and members of the committee. I have with me on my right Martha Yallup. She is a member of our tribe, and she is the director of the tribe's education division.

My name is Melvin Sampson, and I am a member of the Yakima Tribal Council, and I am on the education committee for the tribe.

Mr. Chairman and members of the committee, on behalf of the Yakima Tribal Council, I wish to thank the committee for giving me the opportunity to testify.

Section 2 of H.R. 9810 will provide desired and needed participation by a tribal council and the Indian community in the planning and expenditure of 874 moneys. Although we strongly support the end result of section 2, there are several amendments that we would like to propose for your consideration.

Based upon the Yakima Treaty of 1855, the Federal Government has a responsibility to provide education to Yakima Indians. At the present time, several Federal agencies are involved in the responsibility. If the ultimate responsibility was placed with the proper Federal agencies, the administration of these moneys by the agency and the recipient would be enhanced.

Therefore, we propose that the Assistant Secretary for Indian Affairs of the Department of Interior plan and administer 874 moneys under section 2 of H.R. 9810. This proposed amendment would require changing "Commissioner" in subsection and subparts of section 2 to "Assistant Secretary for Indian Affairs."

We propose an amendment regarding the amount of the payment as provided in subpart (f)(1) of section 2. The three criteria enumerated in (f)(1) (A), (B), and (C) are for "A" payments.

Consideration should be given to Indian children who live on or near a reservation and have a parent employed on Federal property or are on active duty in the uniformed services.

Our proposed amendment would make "B" payments a part of H.R. 9810. We propose to add language to (f)(1)(B) so that it would read as follows:

> (B) resided on Indian lands as described in clause (a) of section 403(1), or on land held by an Indian tribe and which is exempt from State or local taxation, except where the land is so exempted by State or local action, which in attendance at such schools; or resided with a parent employed on Federal property (i) in whole or in part in the country in which the school district of such agency is located, or (ii) if not in such county, in whole or in part in the same State as the school district of such agency; or had a parent who was on active duty in the uniformed services—as defined in section 101 of title 37, United States Code.

This proposed amendment regarding "B" payments is the same language as contained in the law as it exists—20 U.S.C. section 238 (b)(2)(3).

We propose an amendment to f(2)(B) regarding enrollment in bilingual programs. This language does not recognize American Indian languages as a bilingual component of a program. Therefore, we propose to change the language so that the last phrase of (f)(2)(B) would read as follows:

"Except that Indian students shall be permitted to enroll in American Indian language programs to the extent required by need."

The "Plan of Basic Education," (f)(2)(C) and payments under the plan, (f)(2)(D), do not provide for the possible necessity of construction under certain circumstances. Construction is discussed in H.R. 9810 only if there is a rejection of the plan of education, (f)(2)(J).

The "Plan of Basic Education" for 874 moneys as formulated under (f)(2)(C) may show the necessity for construction. The mechanism available to a local educational agency to provide for necessary construction activities is a special levy. This mechanism is not presently available to Indian tribes.

Therefore, we propose to add a part VI to (f)(2)(C) which would be as follows: (VI) There is authorized to be appropriated such sums as may be necessary for the construction of adequate facilities.

The "Participation" provision of (f)(2)(C)(VI) is subject to interpretation. Participation could mean participation in all phases of the development of a plan of basic education or participation could mean concurrence by the designated representative after all the work on the plan has been completed. Therefore, we propose to add language to (f)(2)(C)(iv) so that it would read as follows:

"Is formulated with the active and continuous participation of the designated representative of each tribal council of an Indian Tribe."

The definition of a local educational agency in section 22 should be made a part of the definitions in section 2(k) and the definition should include a "tribally operated school." This definition would be contained in (k)(6).

Sections 3 to 22 of H.R. 9810 are detailed and pervasive. We realize that there are deficiencies and administrative problems in the Office of Indian Education, Department of the Interior.

It is very difficult for us to determine the extent of these deficiencies and administrative problems. There is also the further difficulty for us to determine the extent of the remedy or solution to these deficiencies and administrative problems.

Speaking as a councilman involved in education programs on the Yakima Indian Reservation, we realize the value and necessity of a comprehensive education plan. A procedure needs to be developed so that the Yakima Tribal Council can develop a comprehensive education plan for the Yakima Indian Reservation.

This procedure could be made applicable to all Indian tribes. The capability to develop such a plan could be with an Indian tribe or if the tribe does not possess the capability, the Bureau of Indian Affairs should possess the capability to develop their comprehensive education plans.

Your consideration of our proposed amendments and comments is appreciated. Thank you for the opportunity to present testimony on H.R. 9810.

Mr. LOVESEE. If I may make a statement. Unfortunately, we have run into the problem of a vote on the floor. That is why Congressman Blouin went first so that he could return ahead of Congressman Quie. I am not sure what the bill is.

What I would like to do now is to ask the witness' indulgence, and ask for a clarification of one or two technical points, for the record. Then, the chairman and Congressman Quie will be able to ask more general questions when they get back.

I wonder if you would, for the record, go into the comprehensive educational plan a little bit more in detail. I only know one or two tribes which have already formulated such comprehensive educational plans. Please go into what it involves, the formula and what types of things are covered by it.

Mr. SAMPSON. Martha can probably be more specific on some of the instances, but I can give you my view, or what I view as a comprehensive educational plan, or what I would like to see as a comprehensive educational plan.

The Yakima Tribe is presently involved in honoring scholarships, and so forth, to tribal applicants. We don't have any process in determining now, or at this particular point, the kinds of things which, if educated in, would make them employable as far as the tribes are concerned, if they decided to come back to the reservation.

We operate several education related programs on the reservation, but we don't have any overall structure as to determining the kinds of areas that we need to go into: in reflection to the kind of areas of training needed if the Indian people wanted to be employed on the reservation.

It is all helter-skelter. We all go from one year to one year, to one year. We don't have any plan.

Martha might have some information on that.

Ms. YALLUP. I would like to add where we are coming from in regard to Yakima. One of the things we have, we work with 11 to 13 schools districts. Eleven for sure. There are some where we have children, maybe a small number of children, and we have not identified those yet.

In 11 school districts, there are 1,800 Yakima children. We have a large preschool program. When our children leave us and go into kindergarten, we don't have anything to say about what happens to them. The parent committees have no input, ways that they can control under Johnson-O'Mal'ey or title IV.

What we would like to do is to develop a comprehensive education plan that would include ages prenatal throughout adult. We would like to set up curriculum from prenatal through adult that would be culturally relevant to our situation. Staff training not only for the people who work in our own projects, but for the teachers who are working in the public school districts on our reservation. There is no way at this time that we can force them into getting some of this training. When it is offered, some people do take part in it, but they are the ones who are interested anyway. The ones that really need it, do not take part in it.

The education plan would include facilities. There are a variety of things that we would like to offer when the lack of proper facilities would not enhance the learning that would take place.

We need to conduct a needs assessment for these age levels, evaluations of the programs that would operate, testing of the students at an early age, and following up this testing to see what kinds of things are happening to these children.

We continue to have high dropout rates, a high rate of absenteeism, high rate of drug abuse and alcohol abuse. There are juvenile delinquency problems that we cannot deal with. We need parent involvement, and getting some training for the parents so that they could respond to help make these plans.

Those are some of the areas that we would like to include in the comprehensive plan.

Mr. LOVESEE. Let me ask for another point of clarification.

Do I read your testimony as qualifying tribal government schools as LEA's for receiving 874 payments directly?

Ms. YALLUP. Yes.

Mr. BLOUIN. I believe that Mr. Quie is going to be on his way back after the vote, too. We appreciate your tolerance. It has been a hectic day over on the floor, this legislation is probably going to have several votes on it before it is done.

With regard to H.R. 9810, let me start with one question on the 874 funding section.

Do you see any particular clash between it and the Self-Determination Act, or do you believe generally, philosophically, it is compatible and an effort to further the goals of it?

Mr. SAMPSON. I see some areas of compatibility there for Indian self-determination in that the Indians are going to be able to have a voice as far as planning and direction of the funds, in this particular case, that are going to be used to educate their children.

Mr. BLOUIN. My definitions are a little broader than that, and I think the purpose of the bill is to give Indians control where voice is not sufficient, or where they cannot affect the quality of education through just contribution of opinion. The control aspect is there.

Do you see any problem with that.

Mr. SAMPSON. In our situation, we are dealing with 11 different public school districts that are on and near the reservation which the Indian children attend, and of which three are on the reservation.

Coming from a reservation where we are physically and numerically outnumbered, 3 to 1 by non-Indians on all the reservation, this gives us a little hope as far as having an equal say. Realistically, we cannot get Indians elected on the school boards because we are outnumbered. Out of the 11 school district school boards there are only 2 Indians on the 11 boards, but not on the same one. This would give us some hope.

Ms. YALLUP. I would like to add that out of those 11 school districts, only one superintendent has shown us any willingness to cooperate.

Mr. BLOUIN. What kind of educational programs are being delivered in those schools now in terms of your children?

Mr. SAMPSON. It meets the Washington State standards.

Mr. BLOUIN. I am speaking in terms of meeting the special needs of Indian children.

Mr. SAMPSON. The only thing that is in addition to what the regular curriculum is some of the things that the parent advisory committees are able to get in there as far as JOM activities are concerned.

Mr. BLOUIN. Is that sufficient in your opinion?

Mr. SAMPSON. No.

Mr. Blouin. What recourse, currently, under Washington State law and under powers of the various Federal agencies, do your parent committees have to win the school board's attention to their recommendations?

Mr. Sampson. To my knowledge, there are not any.

You are talking about the legal aspects, or what?

Mr. Blouin. "We don't like your recommendations. We appreciate your willingness to put them out. But we think that this the way it ought to be." Do you have any recourse at all to that?

Mr. Sampson. No.

Mr. Blouin. Do you see that recourse under the general thrust of H.R. 9810?

Mr. Sampson. Yes, I see some.

Mr. Blouin. Do you see that recourse in some instances being divisive to the point where it is destructive, or do you see it being advantageous to the point where it is going to result in better quality education for the Indians?

Mr. Sampson. I see it as advantageous in better quality education for all the children. I think that it is part of the problem of the public school system on the reservation. I think that all the students will benefit.

Mr. Blouin. That is the answer.

Mr. Sampson. I sit on the junior college board of trustees and we are in a situation right now where we are having to generate the kinds of programs to make students coming out of high school institutions ready so that they can start college preparation.

So this tells me that some place along the line, somebody is failing. So I think that nobody knows better what their kids need as far as education than those parent advisory committees, at least in our situation, and with respect to our school districts. In our situation that is probably good. A councilman ought to have the opportunity to participate in developing the plan.

Mr. Blouin. With regard to the signoff authority and the basic plan of our bill, in the case of your tribe, who would be most likely to sign off; would it be the tribal council or the parent committees or the local school boards?

Mr. Sampson. It would be my recommendation that it be the parent committees at the respective schools where they are currently operating under JOM procedures.

Mr. Blouin. It is your understanding that the tribal councils would go along with that?

Mr. Sampson. It would be my recommendation as a member of the tribal council.

Mr. Blouin. The tribal council would go along with that?

Mr. Sampson. Yes. It depends on how persuasive you are.

Mr. Blouin. This is all I have for the moment. Let me go to the staff.

Does the staff have any questions?

Mr. Lovesee. I realize that you don't have any testimony in here regarding the Bureau reorganization.

Mr. Sampson. I thought we did.

Mr. Lovesee. I am talking about specific comments on specific provisions on section 3 to 22. Is the reason that you don't have any testimony in here because it does not really impact on your situation?

Mr. Sampson. It is our opinion that the two things should be separated. I don't think that 3, 8 and 21 belong with part 2. That is point one.

There are some things in that last part that can be handled administratively, and some parts in there that should be legislated. It is mixed.

Mr. Blouin. Let me follow up on that.

Just in terms of trying to understand how this bill will fit into the legislation generally, it will be made a part of the Elementary and Secondary Education Act reauthorization. It will be a separate title within that act, so that if your concern is that the controversy of 3 through 21 would pull down the valuable basic funding part, it can be separated structurally legislatively. Separate amendments can address those provisions. Would that take care of your concern, or am I misunderstanding you?

Mr. Sampson. It would take care of part of it. I can see 3 through 21 holding up 2, or 1.

Mr. Blouin. You don't want to be brought down by the controversial parts.

Mr. Sampson. I am not in total concurrence of what is contained in 3 through 21. It is our opinion that they should be separated. If they do not, then we will have to readdress that.

Mr. Blouin. Should we just eliminate it?

In other words, you are satisfied with the current state of affairs in BIA?

Mr. Sampson. I did not say that. I said that we would have to take another look at it. I am not satisfied with that. I heard you make a comment to the gentlemen who previously testified that you reviewed so many years back the history of the Bureau. I could also refer to a recently published GAO report. It would be my sincere hope that you, gentlemen, would take a closer look at that and put them on the right track, or put them on a track, I guess.

Mr. Blouin. Would you be willing to submit in writing your specific recommendations on 3 to 21 to us in the next several weeks?

Mr. Sampson. Yes. We will also have a couple of concerns that we overlooked, which we will also submit to you. That is in reference to the switch off that Mr. Snake mentioned. We also have some opinions on that which we will submit to you in writing also.

Mr. Blouin. We appreciate that very much.

If there are no further questions, thank you very much for being with us.

To the best of our knowledge, Mr. Neil Morton has missed his connection, and will not be here. He was to be our last witness today. For some reason he could not make it.

With that, that completes our witness list for the day. We will meet again tomorrow at 9:30 in room 2257 to continue our hearings on the subject.

[Whereupon, at 2:50 p.m., the subcommittee adjourned, to reconvene at 9:30 a.m., Wednesday, February 8, 1978.]

[Additional material submitted for inclusion in the record follows:]

Statement of
Mississippi Band of Choctaw Indians
Tribal Council Committee on Education
pertaining to
HR 9810, Indian Basic Education Act

The Mississippi Band of Choctaw Indians believes that Self-Determination can only be a reality through Indian control of programs designed to benefit Indians and education plays the central role in preparing people to carry out Self-Determination. Since the general thrust of this bill is to provide greater local Indian control for Indian Education we support the intent of the bill. We feel, however, that, as currently written, HR 9810 would not lead to a strengthening of Choctaw Education.

We realize the value and necessity of a comprehensive education plan. A procedure needs to be developed so that the Choctaw tribe can develop a comprehensive education plan for the Choctaw Indian reservation. The procedure could be made applicable to all Indian tribes. The capability to develop such a plan could be with an Indian tribe or if the tribe doesn't possess the capability, the Bureau of Indian Affairs should possess the capability to develop their comprehensive education plans.

For the sake of this statement, we will limit ourselves to remarks concerning the two major objectives of HR 9810: the provision for dealing with a plan for basic education of Indian children in public schools and those provisions addressing the reorganization of the BIA's Office of Education.

The first objective has limited applicability to Choctaws: few parents send their children to public school and we feel that such an educational alternative should (at least for the time being) remain for parents. We defer to tribes more deeply involved in this situation for their guidance and advice in dealing with public schools. However, we have two comments relating to the sections promulgating this objective: Sec. 2 (F) (2) (B) - insert "bicultural after bilingual".

Sec. 2 (F) (2) (ci,ii,iii) - these paragraphs give ultimate control to the Commissioner, thereby reducing the true local control. These paragraphs should be revised to change the Commissioner's role from final "approval" to "concurrance with tribal desires".

We agree that contemporary standards for education in BIA schools is needed (Cf: Sec. 3). These standards however, must be established locally to meet the needs as perceived by the local tribe. We feel that although a national organization can set standards, these would have to be reformulated with respect to the local situation. Thus, it would seem more feasible to simply assist local tribes in establishing local programs that are consistant with state standards and meet the local needs.

The second objective concerns us greatly. While we agree with the necessity of reorganization (Cf: Sec. 8, 9, 10), we feel the plan presented would not unify Choctaw education but cause it to be fragmented.

There are 6 BIA elementary schools on the Mississippi Choctaw reservation. These 6 community schools serve as feeder schools to one central BIA High School. These schools are seen now as a school system operating out of the Choctaw Agency. Under the provisions of Sec. 8, 9 of HR 8910, each of these six schools would deal directly with the BIA Director of Education. This independence of feeder schools would make curriculum and resource management difficult. We should insure that pupils ending the high school (or transferring from one feeder school to another within the reservation) have similar preparation. With six independent schools this would become difficult. Although the plan proposed in HR 9810 appears feasible with respect to isolated individual schools or schools not involved in a "feeder" situation, we would suggest that an allowance for reservation wide school systems to be included in the legislation.

We support the development of a personnel system for educators within the BIA which allows for expedient personnel action. Such a system must include a procedure for local accountability of educational personnel and for the development and implementation of guidelines for education for specific local situations

Section 20 (1) BIA "contract" or "tribally operated" should specifically be included in the definition of the term "local education agency". This definition should also be included in section 2 (k).

Your consideration of this proposed amendment and comments is appreciated.

Colville Confederated Tribes
P. O. Box 150 - Nespelem, Wash. 99155 (509) 634-4591

February 16, 1978

The Honorable Carl D. Perkins, Chairman
House Education and Labor Subcommittee
2181 Rayburn Building
Washington, D.C. 20515

Dear Mr. Chairman:

Attached is a letter from the Grand Coulee Dam School District outlining the potential effects of H.R. 9810 on a Public School that serves an Indian reservation.

The Colville Business Council is concerned that as H.R. 9810 is presently written, it could lower these schools capability of serving Indian students in impacted areas. We submit this letter to your Committee for submission to the official record.

Sincerely yours,

Virgil Gunn

Virgil Gunn, Chairman
Health, Education, and Welfare
Committee
Colville Business Council

Attachment

SUPERINTENDENT
Alfred G. Knutson

DIRECTORS
A. J. Gerard, Chairman
O. J. Scharbach,
Vice-Chairman
Richard Popp
Alice Goodwin
Myriam Munson

Grand Coulee Dam Schools

Director of Curriculum
Roy E. Williams

PRINCIPALS
Wallace Lee
Lake Roosevelt High School

James A. Parker
Grand Coulee Dam Jr. High

Raymond Gilman
Center Elementary

Arthur Wright
Central Elementary

SCHOOL DISTRICT 301-J
Box 100
ELECTRIC CITY, WASH. 99123
Phone (509) 633-2143

February 1, 1978

Mr. George Davis
Bureau of Indian Affairs
Nespelem, Wa. 99155

Dear George:

In response to your inquiry regarding the impact of HR 9810 on the Grand Coulee Dam School District, I would make the following comments: Our chief concern is the language of section 2(a)(g) which appears to allow the state (Superintendent of Public Instruction and/or Legislature) to count 874 funds generated by Indian students residing on reservations as local resources in computing the apportionment paid to the District under the equalization formula.

Our concern is two fold, first for the immediate reduction in funds we feel we would suffer as a result of this provision and secondly even more significant long term reduction of 874 funds that could occur as a result of this precedent setting language. At the present time, Grand Coulee Dam School District, which is located adjacent to the Colville Indian Reservation, serves approximately 130 Indian students who reside on Tribal property as defined by HR 9810. We anticipate receiving an 874 payment of approximately $660.00 for each of these students, for a total of about $85,000.00 for the 1977-78 school year. The language of section 2(f)(1) seems to provide for substantially higher per pupil payments for eligible students based on a per pupil expenditure in the District of approximately $1175. The 874 payment for Indian students residing on the reservation would be approximately $152,750.00. The State, however, under the provision of 2(a)(g) could deduct an amount in proportion to the states percentage of support to the local District from the State apportionment. The States level of support for 1977-78 is approximately 57% in Grand Coulee Dam School District. Deducting 57% of $152,750.00 ($87,067.00) would reduce available revenues by about $18,000.00.

An Equal Opportunity Employer

The difference may be illustrated graphically by the following example using figures estimated from the current budget of Grand Coulee Dam School District, considering only 874 and State apportionment for 130 eligible Indian students.

Current Practice	HR 9810
A $845.00 State per pupil apportionment	A $845.00 State per pupil apportionment
X 130 Indian students	X 130 Indian students
$109,850.00	$109,850.00
B $660.00 874 per pupil	B $1175.00 Average per pupil expenditure (874)
X 130 Indian students	X 130 Indian students
$85,800.00	$157,275.00
	C $157,275.00
	X 57% States apportionment of District revenues)
	$ 89,647.00
TOTAL A plus B	TOTAL A plus B minus C
$ 195,650.00	$ 177,478.00

LOSS TO THE DISTRICT $ 18,172.00

Even more significant are the long term effects of this provision. During the 1977 legislative session of the Washington State Legislature, a bill entitled "Basic Education Act of 1977" was enacted. This bill provides for the State to "fully fund basic education". This is to be accomplished in a series of steps so that by 1981 the State will be providing 90% of the available revenues for all school districts in the State. The additional 10% may be raised in local special levies to provide programs in excess of those provided for under the Basic Education Act. The bill goes on to define basic education as considerably less than the schools are currently doing. The apportionment formula for fully funding of basic education provides for deduction of locally available revenues. If the State is allowed to deduct any or all of the 874 payments currently enjoyed by Grand Coulee Dam School District and other Districts impacted by federal installations, it will likely result in providing a lower quality educational program than we are currently able to offer, and, in asking local tax payers to shoulder a continuing heavy burden in the form of special levy taxes.

The Grand Coulee Dam School District currently has an operating budget of approximately 2.2 million dollars. The revenues come from three primary sources: State support approximately 57%, Federal support, including 874 payments and categorical programs, approximately 17%, and local excess levy taxes approximately 12%. The relatively small percentage of special levy taxes is not indicative of the burden on the individual taxpayer. It is rather due to a low total assessed value of the District, which results from the large proportion of the school District being non taxable federal and state owned properties, and a portion of the Colville Indian Reservation. Included in those properties is the principal industry of our area, Grand Coulee Dam, operated by the U. S. Bureau of Reclamation, and employing approximately 550 people. Large portions of the property within the school district boundaries are owned by the U. S. Bureau of Reclamation, the National Park Service and State Parks Department. Much of the remaining property has little commercial value, the result is the individual home owner must pay a disportionately high tax. In Grand Coulee Dam School District a home owner is required to pay in excess of 9 dollars per $1000 of assessed valuation in order to provide less than 12% of the total District revenues, whereas taxpayers in Districts with substantially greater total assessed valuations can raise 30 or 40 percent of the current budget expenditures on four or five dollars per $1000 of assessed valuation. More than half the students attending Grand Coulee Dam Schools are eligible under current 874 provision to generate funds for this District. Public Law 874 payments are responsible for about 10% of our current revenues and are an essential resource needed to operate quality programs without gouging the local home owner.

The net result of HR 9810 and Washington Basic Education Act, will be a reduction in program offerings and a continuing excessive burden on local tax payers in the form of special levy taxes. We feel any language which would result in the loss to the District of 874 funds should be omitted from HR 9810.

Sincerely,

Roy Williams

Roy Williams, Administrative Assistant

Colville Confederated Tribes
P. O. Box 150 - Nespelem, Wash. 99155 (509) 634-4591

February 16, 1978

The Honorable Carl D. Perkins, Chairman
House Education and Labor Subcommittee
2181 Rayburn Building
Washington, D.C. 20515

RE: Statement - H.R. 9810, "A bill to amend Public Law 874, Eighty-first Congress, to provide for the basic education of Indian children, to provide improvements in the delivery of other educational services for Indians, and for other purposes."

Dear Mr. Chairman:

I would like to submit written testimony regarding H.R. 9810, the so-called "Indian Basic Education Act".

I am the chairman of our Council's Health, Education, and Welfare Committee, and H.R. 9810 was referred to us for comments.

The Council generally supports the concept of the bill, that of providing Indian tribes with a more meaningful and effective forum for giving their children better education.

For the past three years, my tribe has successfully operated a previously private school, the Paschal Sherman Indian School. The school presently operates under discretionary funds from the Bureau of Indian Affairs and the Office of Education. The tribe contributes such funds as it can from time to time. However, even under the best of circumstances, planning and funding on a year-to-year basis is quite uncertain, and this works a detriment to the goals of our basic education programs for our children.

If we understand it correctly, the purposes of H.R. 9810 would include the provision of fiscal support to put the operation of schools such as ours on a firmer basis.

However, may we suggest two amendments to the bill which we feel will establish the intent of Congress in no uncertain terms regarding the inclusion of tribally controlled and operated previously private schools under the provisions of this Act? First, we would recommend that Section

10(a) be amended by striking the period (.) at the end of the first complete sentence in that subsection and adding at the end thereof "including tribally operated previously private schools." Secondly, we would suggest the addition of a new subparagraph (6) at the end of Section 22, "Definitions" to read as follows: "The term "contract school" shall mean all Indian-controlled schools operated under contract with the Bureau of Indian Affairs, including former Bureau of Indian Affairs schools, former private schools, and any schools established under the provisions of this Act."

We have grave concerns about reorganization of the functions of the Bureau of Indian Affairs regarding Indian Education. Pending the disposition of any options under the President's Reorganization Program regarding a Department of Education and Indian Education in particular, we would withhold any comments on that Section of the bill which addresses this matter and request that the Committee not consider this portion of the bill until the tribes have had time to review the option papers prepared by the President's Reorganization Project.

Finally, we have a major concern for the Public Schools that serve the Colville Reservation. These schools are located at Wilbur, Grand Coulee, Coulee Dam, Nespelem, Omak, Okanogan, Brewster, Tonasket, Inchelium, Republic, and Curlew. These schools received 874 funds for Indian students.

During the 1977 legislative session of the Washington State Legislature, a bill entitled "Basic Education Act of 1977" was enacted. This bill provides for the State to "fully fund basic education". This is to be accomplished in a series of steps so that by 1981 the State will be providing 90% of the available revenues for all school districts in the State. The additional 10% may be raised in local special levies to provide programs in excess of those provided for under the Basic Education Act. The State bill goes on to define basic education as considerably less than the schools are currently doing. The apportionment formula for fully funding of basic education provides for deduction of locally available revenues. If the State is allowed to deduct any or all of the 874 payments currently enjoyed by the above named schools impacted by federal installations, it will likely result in providing a lower quality educational program than the schools are currently able to offer, and, in asking local tax payers to shoulder a continuing heavy burden in the form of special levy taxes. Therefore, I suggest that the language of Section 2(a)(g) be revised to allow or protect each school district in the State of Washington from losing the federal impact funds due to the regulations of the Washington State "Basic Education Act of 1977". We feel this is a congressional philosophy violation.

Sincerely yours,

Virgil Gunn

Virgil Gunn, Chairman
Health, Education, and Welfare
Committee
Colville Business Council

STATEMENT OF THE
COALITION OF INDIAN-CONTROLLED SCHOOL BOARDS, INC.
TO THE
ADVISORY STUDY GROUP ON INDIAN EDUCATION OF THE COMMITTEE ON EDUCATION AND LABOR
WITH RESPECT TO
H.R. 9810: THE INDIAN BASIC EDUCATION ACT

My name is Joe Dupris and I am the Executive Director of the Coalition of Indian-Controlled School Boards, Inc.

THE "COALITION"

The C.I.C.S.B., Inc. is a community-based organization with a membership of over 160 member schools, who are at various points in controlling their children's educational process. Our platform -- indeed our whole purpose in being -- is summarized simply: To bring about greater control of Indian education by Indians. In our view, coercive assimilation -- accomplished by denying Indians the right to educate their own children in the manner of other American communities -- has caused a tragedy of astronomical dropout rates, low achievement scores, and untold misery for so many Indian people. Although progress has been made, we believe there are serious flaws in the mechanisms presently existing for educating Indians.

GENERAL STATEMENT OF SUPPORT

We believe the Basic Indian Education Act, H.R. 9810, is a major step toward resolving some of the flaws associated with the expenditure of federal funds by school districts for Indian education. The proposed legislation, H.R. 9810, supplements P.L. 93-638, the Indian Self-determination and Education Assistance Act, and as such, H.R. 9810 promotes direct and authoritative involvement of the Indian tribes and the Indian community.

We believe the Federal government's responsibility to Indian education translates into an obligation to guarantee equal educational opportunity for Indian children. For Indians, equal educational opportunity, however, means self-determination. Thus, all Federal Indian education programs should be directed toward giving Indian communities a direct legal voice in the operation of their own schools. We feel it is only through this legitimizing force of the Federal Government that a voice is guaranteed for the Indian parents and community in the education of Indian children. In our view, H.R. 9810 is one more step toward consolidating and enunciating a clear and unmistakable public policy of Indian control of Indian education.

SPECIFIC STATEMENTS AND RECOMMENDED CHANGES

Before we present specifics related to both support and recommended changes we wish to acknowledge our membership who have provided recommendations and analysis as to the impact of H.R. 9810 on their schools and to the various national Indian leaders and Coalition staff who have assisted in refining our views of H.R. 9810. Of particular note in our thanks is to Michael P. Gross, Attorney at Law, Santa Fe, New Mexico who has assisted us by providing a section by section analysis which we have previously provided to the committee and which we have herein referenced.

We will address the specifics of H.R. 9810 which we believe will strengthen the intent of the legislation, and we will identify the issues which are to be noted when H.R. 9810 is prepared for formal debate in Congress.

A. The Main Features of H.R. 9810 Which Merits C.I.C.S.B. Support

1. From now on public school districts applying for Section 3(a) funds under P.L. 874 (Impacted Areas Assistance) will have to proceed under an approved educational plan showing how the funds will be used for strictly Indian education purposes and receive the endorsement of Indian tribes to be served (unless the public school board is majority Indian). Until now the requirement that P.L. 874 monies be used solely for Indian education applied only to the special Indian education program under P.L. 874 added to the legislation in the Indian Education Act of 1972. Mainstream P.L. 874 had never been subject to a special requirement concerning Indian needs.

2. More than ever before this bill would make public school systems aware that in educating Indians they are exercising a

Federal function and have responsibilities that are both Federal and State in nature.

3. Most significantly, the bill gives tribes the right to opt out of public schools systems which prove unresponsive by creating either tribal -- or Bureau of Indian Affairs -- schools. Along with reforming the BIA's internal structure, this is the bill's chief innovation. It creates a statutory escape valve for those Indian communities which feel they cannot achieve equal educational opportunity within public schools.

4. The bill requires the BIA for the first time to establish comprehensive educational standards for Indian education.

5. The bill imposes stricter rules for BIA school construction and directs that all BIA-funded schools be brought up to safety and health standards as quickly as possible.

6. The bill extends Local Education Agency status to Indian-controlled (tribal) schools under the Indian Education Act of 1972. This relabeling will enable Indian-controlled schools to receive the formula funds for Indian education provided under Title III of P.L. 874, in addition to receiving the discretionary funds for non-LEAs also provided in that section. C.I.C.S.B. recommends that the language of this section be amended to make this dual intention clear.

7. The bill institutes formula funding and direct funding for all schools financed by the BIA and centralizes the education programs of the BIA under direct Washington authority. The effect is to decrease the policy-making functions of the Area Offices.

8. The bill establishes an education contingency fund to finance a variety of unforeseen needs, including budget shortfalls and new school starts demanded by Indian tribes.

9. The bill removes the Indian preference requirement for personnel at BIA schools where "local school boards" (defined as BIA advisory boards) exist. C.I.C.S.B. recommends that Indian preference be a local option for both BIA and tribally controlled schools.

10. The bill gives advisory BIA school boards the right to participate in agency personnel decisions affecting their schools and appeal from adverse decisions.

B. Specific Issues and Recommendations

1. The central and compelling issue addressed by H.R. 9810 is Indian control of education funds dispersed by the Federal government for the education of Indian children in state public schools. H.R. 9810 provides for Indian tribe and community control of Indian education funds, in this instance P.L. 874 monies, by and through a required plan of basic education for Indian students. This plan is to be developed and designed with and in cooperation

with the tribal governments and the Indian community.

a) The process of tribal and parental involvement should be clarified by either requiring a specific method of involvement and/or a certification of method employed by the school, the results of the involvement published and made available for inspection.

b) The dispute resolution design for conflicts regarding the basic education plan ends in binding arbitration by the Commissioner of Education (United States Office of Education) or the alternative option by the tribal governments of the withdrawal of support from the public school and the contracting of the education services for their children through the BIA under P.L. 93-638. This procedure has merit if the time frame for the dispute resolution is shortened and made more specific for both options. The time frame for binding arbitration may require approximately 9 months or a full school year, during which the Commissioner may continue funding under the "adverse affect" condition. This time frame actively promotes stalling and/or "stonewalling" by the public school system until the last possible minute. The binding arbitration, if a decision is reached, may last from one to three years. This second time frame for arbitration enforcement is not clearly set forth by H.R. 9810. If binding arbitration is to be in effect for a period of one to three years H.R. 9810 must clearly state the conditions of the arbitration time frame, the process of administration, and the method of enforcement of the award. It also seems to be true, but not clearly set forth, that once the Commissioner rules and sets forth the binding arbitration award, the tribal option of withdrawing of support from the public school and contracting with the BIA under P.L. 638 is denied for the period of the arbitration award.

The specifics of the dispute resolution should be more detailed and defined so that the disputants have full opportunity to exercise their options and/or resolve the dispute before binding arbitration. A secondary, yet essential, issue is the impartial third party deciding the issue(s) and setting forth the arbitration award. The Office of Education has in the past been more inclined toward public school systems than toward Indian-controlled schools. If the mediator of the dispute is viewed by both or either party as being politically motivated or not a respected, neutral third party, then negotiations and mediations will be stalled and unfruitful. This condition also holds true for the arbitrator of disputes. The dispute design has flaws which may preclude agreements at the first level and thereby foster disputes.

Neutral third-party mediators and arbitrators are essential to the dispute resolution, as well as shortened timelines. These conditions can be matched and verified by researching the dispute resolution system utilized in private and public employee bargaining. We believe the records of the National Labor Relations Board will give insight and a focus to the proposed dispute resolution system in H.R. 9810.

c) If a tribe opts to withdraw its support from the public school system, an approximate two-year wait is required before contracting of the educational services are allowed. This time frame is unreasonable and should be reexamined. The history of Indian-controlled schools will reveal the establishment of the schools can and may be quickly accomplished by the Indian tribes and communities. To require a one to two year wait instills a "cooling effect" which may be seen as a method to preclude the establishment of Indian-controlled schools and a frustrating of the intent of Indian control fo Indian education. The "contingency fund" provided in a later section of H.R. 9810 can be made sufficient to allow for the establishment of a school if necessary.

d) The funding for each school under P.L. 874 is an unknown quantity and each school may be impacted differently. The issue of "formula funding" and "equalization" strikes to the heart of the school operations. One of the main features of H.R. 9810 seems to be to increase the funding to schools educating Indian children. This increased funding may be "wiped out" by states who may withdraw state support in proportion to the Federal dollar increase. The formula funding may in certain instances reduce the amount of money currently being received based on the number of Indian students in attendance.

Provisions must be made in H.R. 9810 to preclude both situations. The state must not be allowed to reduce support for the Indian children based upon increased Federal dollars and the amount of money currently received should be maintained by a provision requiring a "maintenance of standards" so that each school will be guaranteed for a specified time period a specific amount of funds dependent upon the Indian children enrollment and attendance.

e) Subsection (f)(2)(B) is currently written in a manner to attempt to preclude discrimination against Indian children. However, to state the issue clearly and without the possibility that this clause will be used against the Indian children and Indian community, the following wording is recommended:

"Nothing in this subsection shall be interpreted as encouraging discrimination against Indian students and Indian students shall be permitted to enroll in bilingual and other culturally oriented programs, to the extent required by need."

f) The basic education plan for Indian children in each public school serving the Indian community and their children is the key to equal educational opportunity and self-determination. The specifics of the "basic plan" must not be left to "chance" and "goodwill." The plan should be designed and implemented in a contract format to insure proper administration and resolution of disputes and any failure to implement the plan. Too often the public schools have agreed to provide a specific service and/or program and then have failed to perform and be accountable. The contract format with the plan being legally enforceable will give merit and strength to the "basic plan." This binding and enforceable element to the plan developed by each school solidifies the intent of H.R. 9810 and it is compatible with the binding arbitration awarding system of dispute resolution.

2. The second major section of H.R. 9810 responds to the issue of quality education for Indian children within the option made available to tribal governments and Indian communities; that is, education in BIA operated schools and the "contract

school" funded by the BIA.

The establishment of standards for BIA schools and quality of life for students attending BIA operated schools is essential. Proper health and safety standards should be a matter of routine funding and maintenance. However, this issue of quality education has not been given the full attention by the funding entity, Congress, nor the BIA.

The education standards for BIA operated schools have not been given top priority and, therefore, the quality has not been satisfactory to the Indian community and the Indian students. H.R. 9810 does provide for the establishment of educational standards. However, the actual standards in draft form need to be provided to the Indian tribes for response and comments. In fact, the Indian tribes and communities should be consulted and involved in the standards from the beginning to the end. If these standards are also to be applied to contract schools, these schools should also have the opportunity to help design the standards and to be fully funded so that the standards may be implemented.

This establishment of standards for both education and quality of life should not be used to preclude and/or frustrate the contracting of the education component by Indian tribes or tribal organizations. If a contract school is deficient in any standard, then the standard should indicate the level of funding and assistance needed to comply. If the standards in education are not applicable or counter to the tribal education codes and/or the needs of the Indian children, the education standards should be flexible enough to allow for alteration to meet the needs of each tribal community.

a) The uniformity and maintenance of educational quality can be greatly assisted by centralizing the line authority for education within the BIA. The utilization of the area offices as both the contracting agent for the BIA contract schools and the providers of technical assistance has not proven to be effective. In order to maintain a uniformity of standards both educational and in funding levels, the BIA should establish a system of centralized contracting for 638 schools and a centralized system of technical assistance. This would facilitate long-range planning and the appropriate prioritization of facilities construction and the estimation of programmatic needs.

b) The clear statement of the BIA function in Indian education in Sec. 12 as being "to foster Indian control of Indian affairs in all matters relating to education" is wholeheartedly supported by the Coalition of Indian-Controlled School Boards, Inc. Each Indian child within the BIA education system, either BIA operated schools or 638 contract schools, will benefit from such a clear and unambiguous policy for Indian education.

c) The C.I.C.S.B. fully supports the intent of H.R. 9810 in the attempt to provide additional strength and support to the advisory boards for BIA operated schools. The increased attention to the quality of personnel being employed is essential, and encouragement of quality applicants for all education positions should be maintained and supported. The BIA should continue in a more vigorous manner than before to locate and employ as many Indian educators as possible, and in addition continue to increase the authority of the advisory school boards with the goal being to eventually "work themselves out of a job."

d) The establishment of a management system and uniform standards has potential benefits besides the gathering of basic data and standardization. With the standardization and management system should be specific technical assistance programs designed to implement the uniform systems throughout the educational systems of both BIA operated and tribally operated schools. The C.I.C.S.B. recommends that in establishing the uniform standards and management systems, funds and authorization be included to provide highly technical assistance to the schools in order to both train personnel and also establish and maintain the proposed systems of management and information retrieval.

SUMMARY

The Coalition of Indian Controlled School Boards, Inc. supports the concepts stated in H.R. 9810 which furthers the establishment of self-determination and control by the Indian tribes and communities over the educational systems and programs for their children.

We have attempted to highlight our concerns over long-range and legislative intent, and we have, in general and in specific, attempted to communicate and advocate the desires and wishes of our constituency.

As the legislation progresses we, the Coalition, will attempt to provide assistance, comments, and analysis to the committee. This testimony and our prior contribution, the analysis of H.R. 9810, section by section, should be taken as complementary to each other.

Please contact us if we can be of assistance in clarifying our testimony and any other issue concerning H.R. 9810 that may affect our membership.

Thank you for the opportunity to present this testimony and our concerns regarding H.R. 9810.

INDIAN BASIC EDUCATION ACT

WEDNESDAY, FEBRUARY 8, 1978

House of Representatives,
Subcommittee on Elementary, Secondary
and Vocational Education,
Committee on Education and Labor,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9:20 a.m., in room 2257, Rayburn House Office Building, Hon. Michael Blouin presiding.

Members present: Representatives Blouin, Mottl, Kildee, Quie, and Pressler.

Staff present: Alan Lovesee, majority counsel; John Forkenbrock, staff director; Jeff McFarland and Scherri Tucker, majority staff; and Jennifer Wysong, minority staff.

Mr. Blouin. The Subcommittee on Elementary, Secondary and Vocational Education, in conjunction with the Advisory Study Group on Indian Education, will begin its second day of hearings on H.R. 9810, the Indian Basic Education Act.

We are continuing our effort to solicit input from tribal governments. I would like to state again that although it will be impossible to receive oral testimony from all the tribes, the record will remain open for the official statements of those tribes who have comments on the bill. We have sent copies of the bill out to the chairmen of recognized tribes in the Nation.

I welcome the witnesses for today's hearing. Unfortunately the president of the Pine Ridge Oglala Sioux Tribe, Al Trimble, could not make it today because of the weather. However, he will be submitting written testimony at a later date.

As I call your names—we are going to go into two panels—come up to the table. The first panel consists of Mr. Daniel Peaches, assistant to Chairman McDonald, representing the Navajo Tribal Council. Is Mr. Peaches here? Would you come up front?

Sister Kateri Cooper, director of the division of education, representing Chairman Cecil Williams, Papago Tribal Council, Arizona. If you do have people with you, Sister, do bring them up.

Then, I understand, we have two statements from the Navajo. They will both be submitted in the record.

Mr. Peaches. I will be submitting some exhibits, too, from the Navajo Division of Education.

Mr. Blouin. Can you give me a rough idea how long they will be?

Mr. Peaches. There are some studies.

Mr. BLOUIN. We have an expense problem on publishing the booklets as part of the official record, but they will be available with the record.

Mr. PEACHES. For reference?

Mr. BLOUIN. For reference. Thank you.

Sister, why not start with you?

[Prepared testimony of Sister Cooper follows:]

PREPARED TESTIMONY OF SISTER KATERI COOPER, DIRECTOR, DIVISION OF EDUCATION, PAPAGO TRIBAL COUNCIL

Comments on H.R. 9810 - Papago Tribe

As Chairman of the Papago Tribe, I regret I am unable to attend the hearings. However, we appreciate the opportunity afforded us to testify on proposed legislation that affects us and other Indian tribes. Brief statements have been prepared and I have authorized a delegation headed by Sister Kateri Cooper, Education Director for the Tribe, to testify on behalf of the Tribe.

We are in general agreement with the intent of the bill to provide additional basic education funds to Indian related school districts; to require tribal input in a basic education plan approval; for tribal options to leave the LEA; for new construction aid authority and a revamped personnel system that would be more conducive to efficient management of BIA schools.

Our comments on individual sections of H.R. 9810 are made with respect to

1. How the Papagos would be affected;
2. How other Indians might be affected; and
3. Whether or not this would be the best way to fund improvements to Indian education.

In connection with the latter, we have kept in mind two of our greatest needs at this point in time. The needs are:

1. Construction funds for the Indian Oasis District at Sells, Arizona, the local public school district;
2. Basic operation funds for the Indian Oasis local public school district.

This is by no means a list of our needs but do represent critical ones. Overall, the Congress has been most responsive to special program needs, identified and carried out through the various titled programs. Too often, however, the schools lack adequate space to pursue the programs effectively.

Comments on specific sections of the bill follow.

Entitlements for Indian Children

We recommend the increased entitlements that would accrue through the proposed amendments to P.L. 874.

This increased entitlements will go a long way toward filling our need for additional basic education funds at the local public school district (Indian Oasis). This district serves most of our children that attend public schools. A majority of the school board members is Indian.

In providing additional basic education funds which are sorely needed by the local school district, we caution against any provision that might permit states to decrease state aids. Otherwise, the increased aid would benefit the state instead of the school district. At present, the local school district depends on state aids for approximately 48% of its basic support funds, Federal aids for approximately 51%, and less than 1% from local taxes.

we suggest some kind of a needs criteria be added as a prerequisite for entitlement to the increased P.L. 874 funds. Perhaps a formula could be provided to justify additional funds based on an inverse ratio to the amount of assessed valuation behind each child in the district. There are some situations nation-wide where Indian lands generate large tax revenues primarily from mining operations, oil and gas wells. These districts would not appear to need additional Federal assistance. Other districts, like ours, have virtually no ability to raise local revenue from tax sources.

Tribal Options
(Rejection of Basic Education Plan - Opts to leave LEA)

We endorse the policy of providing the Indian people with several options for choosing the type and kind of school that will provide the best education for their children, whether it is operated by the public school system, the Bureau of Indian Affairs, the Tribe under contract, or as an alternative school. We question, however, the provisions of H.R. 9810 that makes these options apparently available only after disagreements and conflicts have arisen over the merits of a basic education plan that is initially made.

Standards for the Basic Education of Indian Children in Bureau of Indian Affairs Schools

We concur with provisions proposed. The development of standards is important. Standards, however, should include a careful analysis of space requirements that are needed to carry out the activities involved in meeting program standards.

National Criteria for Dormitory Situations

We concur. This has been a need for a long time.

Facilities Construction

We believe a restatement of construction authority is important since program effectiveness is so closely related to the adequacy of space to implement good programs. We point out that the need is not so much to devise a better system for establishing priorities as to fund the projects now known to be needed and fully justified.

The U.S. Office of Education has a backlog of 124 approved construction aid projects under Section 14 of P.L. 815, as amended. The backlog is estimated to cost $290,327,053. Our own local district is included in the backlog with approximately 50% of the student body "unhoused" under the meaning of the law.

The BIA reports a similar backlog of school construction projects involving Bureau and tribally contracted schools estimated to cost approximately $300,000,000.

Unless construction aid is increased proportionately, the attempts at better programming for Indian children will continue to be seriously handicapped.

Indian Elementary and Secondary School Assistance Act

We urge that tribally operated preschool programs be included in the definition of "Indian contract and alternative" schools for the purpose of qualifying for support funds under Section 303(a) of the Indian Education Act (P.L. 92-318).

The Papago Tribe operates two small schools for early childhood education students. We have a new Early Childhood Education building constructed with EDA funds but no permanent source for funding these needed programs.

Regulations

Implementation

Allotment Formula

Uniform Direct Funding and Support

With the possible exception of the off reservation boarding schools, we question the advisability of direct funding to each small school in an agency. This would seem to be contrary to efforts to centralize greater education authority at the tribal government level and at the same de-centralize funding authority further down the line.

Education Personnel

We believe that changes in the current civil service personnel policies and practices are long overdue. We endorse and support any change that will allow more flexibility in personnel employment procedures and that enables more local control and autonomy.

There are not enough Indian educators to staff all Indian schools at this point in time. We favor very much Sec. 13 (c) which would permit a local school board to waive the Indian preference required by law. In the interim this might be accomplished by giving the Bureau excepted appointment authority when requested by a tribe.

Management Information System

We concur. It is long overdue. We have no special comments on the other administrative provisions of the bill.

STATEMENT OF SISTER KATERI COOPER, DIRECTOR, DIVISION OF EDUCATION, PAPAGO TRIBAL COUNCIL, ACCOMPANIED BY TULLY NORRIS, SUPERINTENDENT, INDIAN OASIS PUBLIC SCHOOL DISTRICT NO. 40; ARCHIE HENDRICKS, VICE CHAIRMAN, PAPAGO EDUCATION COMMITTEE; WAYNE PRETT, EDUCATION CONSULTANT, DIVISION OF EDUCATION; AND CLIFFORD PABLO, SCHOOL BOARD MEMBER

Sister **Cooper.** Mr. Chairman, my name is Sister Kateri Cooper, division of education, Papago Tribe of Arizona, and I am representing Mr. Cecil Williams, who requests apologies for not being here in person.

My witnesses are the following, Mr. Tully Norris, who is the superintendent, Indian Oasis Public School District 40; Mr. Archie Hendricks, who is an education committee member; Mr. Clifford Pablo, school board chairman; Dr. Wayne Prett, a consultant from the National Indian Training Research Center, who we are working with on research for long-range planning. He is the statistical person.

There will be parts that I will read, and make other comments.

We are in general agreement with the intent of the bill to provide additional basic education funds to Indian-related school districts; to require tribal input in a basic education plan; for tribal options to leave the LEA; for new construction aid authority and a revamp of the personnel system that would be more conducive to efficient management of BIA schools. We are very well aware that this needs to be changed.

Our comments will lie strictly on how the Papagos would be affected; how other Indian tribes might be affected; and whether or not this would be the best way to fund improvements to Indian education.

We have kept in mind two major areas which are our greatest need, and I underlined the greatest need. That is construction funds and basic operation funds.

We do have a very critical need at the present time, and we can say that Congress has been most responsive to special-need programs that are carried out in the various title programs. However, the schools lack adequate space to pursue the programs effectively.

We recommend the increased entitlement that would accrue through the proposed amendments. This increased entitlement would go a long way toward filling our need for additional basic education funds at our local school district. This district serves most of our children—the majority are Indian children—and we also have the majority of Indian school board members.

However, in providing additional basic education funds which are sorely needed by the local school districts, we caution against any provision that might permit States to decrease State aid. Otherwise, the increased aid would benefit the State instead of the school district. At present, the local school district depends on state aid for approximately 48 percent of its basic support funds; Federal aid for approximately 51 percent, and less than 1 percent from local taxes.

We suggest some kind of a needs criteria be added as a prerequisite for entitlement to the increased Public Law 874 funds. Perhaps a formula could be provided to justify additional funds based on an inverse ratio to the amount of assessed valuation behind each child in the district. There are some situations nationwide where Indian lands generate large tax revenues, primarily from mining operations, oil and gas wells. These districts we think should not appear to need additional Federal assistance. Other districts, like ours, have virtually no ability to raise local revenue from tax sources.

In regard to tribal options, we concur. However, the provisions of H.R. 9810 make these options apparently only available after disagreements and conflicts have arisen over the merits of a basic education plan that is initially made.

In regard to standards for basic education of Indian children in Bureau of Indian Affairs schools, we concur with the provisions proposed, that the development of standards is important. We feel that the standards should include a careful analysis of space requirements that are needed to carry out the activities involved in meeting program standards.

Regarding dormitory situations, we concur.

Construction facilities. We feel this is one of the most important areas. We believe a restatement of construction authority is important since program effectiveness is so closely related to the adequacy of space to implement good programs. We point out that the need is not so much to devise a better system for establishing priorities, as to fund the projects now known to be needed and fully justified.

The U.S. Office of Education has a backlog of 124 approved construction aid projects under section 14 of Public Law 815, as amended. The backlog is estimated to cost $290 million. Our own local district is included in the backlog with approximately 50 percent of the student body "unhoused" under the meaning of the law.

The BIA also reports a similar backlog of school construction, and this is approximately $300 million.

Unless construction aid is increased proportionately, the attempts at better programing for Indian children will continue to be seriously handicapped.

On the Indian Elementary and Secondary School Assistance Act we urge that tribally operated preschool programs be included in the definition of "Indian contract and alternative" schools for the purpose of qualifying for support funds under section 303(a) of the Indian Education Act, Public Law 92-318.

The Papago Tribe operates early childhood programs. At the present we have three areas. We have very heavy parental involvement in the early childhood programs, and there are a lot of demands. We feel this has been very effective, and base our new curriculum from "K" on up, a rebuilding of curriculum. This will help the schools to rebuild their curriculum because of the early childhood program. We are building early childhood programs through EDA, but we have no permanent source for operations.

Regarding the allotment formula. With the possible exception of the off-reservation boarding schools, we question the advisability of direct funding to each small school in an agency. This would seem to be contrary to efforts to centralize greater education authority at the tribal government level, and at the same decentralize funding authority down the line.

Educational Personnel. We believe that changes in the current civil service personnel policies and practices are long overdue. We endorse and support any change that will allow more flexibility in personnel employment procedures, and that enables more local control and autonomy.

There are not enough Indian educators to staff all Indian schools at this point in time. We favor very much Section 13(c) which would permit a local school board to waive the Indian preference required by law. In the interim this might be accomplished by giving the Bureau excepted appointment authority when requested by a tribe.

We concur with the management information system.

We appreciate your asking us to come before you.

Mr. BLOUIN. Thank you. Do any of the others of your delegation have comments?

Sister COOPER. They do, they have a lot to say.

Mr. BLOUIN. All right, you set the order, and we will go from there.

Sister COOPER. Mr. Norris?

Mr. NORRIS. Well, I like the phrase "direct funding" because that is what we need right now. I might point out the current Johnson O'Malley program that is plaguing the Indian districts out there. In our district we have not seen a dollar yet, and most of the school year has gone by; we have not seen a dollar for basic support, nor a dollar from supplementary money. And we are afraid that possibly this bill may go the same route. We are just saying, we cannot run a school without money, somebody has to pay the bills. There has got to be money in the bank to pay the bills and for the essential payroll.

You can see the extreme dilemma placed on the school level when money has to go through so many agencies before it gets down to the school level.

Mr. BLOUIN. What are you doing for money?

Mr. NORRIS. We borrow it.

Mr. BLOUIN. From where, a private lender, or the State treasury?

Mr. NORRIS. This is where we live under stress. The banks in Arizona do not want to lend Indian districts money, but they are forced to right now through registered warrants, which is essentially lending money to the district.

Mr. BLOUIN. And even that is at interest.

Mr. NORRIS. Right. We lose money on interest.

Mr. BLOUIN. What are the reasons given you for not having those funds out there yet?

Mr. NORRIS. Well, for one, it funnels through the Bureau organization on down to the field level; and then from the area offices, or field offices down to the States, and out to the districts. It is just a slow process.

Mr. BLOUIN. That is worse than slow.

Mr. NORRIS. Right.

Mr. QUIE. Will the gentleman yield?

Mr. **Blouin**. Yes.

Mr. **Quie**. What was the time schedule in normal years past? When did you receive the money, normally?

Mr. **Norris**. Well, it is a yearly process.

Mr. **Quie**. This happens every year?

Mr. **Norris**. Right.

Mr. **Quie**. As I understand it, the money goes to the area office and is stopped there.

Mr. **Norris**. Right. We hear it has been frozen, and that is one of the reasons we are here, we want to know where the bottleneck is, and we want to free this money.

Mr. **Quie**. Right. We will have the BIA in here.

Mr. **Blouin**. We will find out what is going on.

Sister **Cooper**. Mr. Clifford Pablo, the school board chairman.

Mr. **Pablo**. I would like to state that on behalf of the Papago children I come before you, asking once again for the dire need of facilities on the Papago Reservation.

As was stated in the testimony, over 50 percent of our students are unhoused. We are currently operating with 17 portable buildings at this time, in our district. The cost of maintaining those buildings, the cost of renting those buildings is phenomenal.

In this country and in Indian education we talk of quality education. I do not feel that we have even begun to establish that. We have repeatedly said that unless the Indian people begin to recognize and achieve quality education, they will not take their place in this country. How, then, can we expect our students to look to stability to assist them which cannot operate on an economically sound basis year after year? Which cannot physically operate because of the demands made on it?

It is extremely frustrating for our school administration, for our Papago Education Administration, to deal with this problem year after year. Even our Indian parents recognize the instability of the system, and I feel that unless we do have funds allotted to construction, we have not even begun to emphasize quality education. Thank you.

Sister **Cooper**. Mr. Archie Hendricks, a committee member.

Mr. **Hendricks**. I would like to speak of the teachers here. Over 50 percent of the teachers come in from Tucson, which is over 65 miles away because there is no teachers' housing at the school. We need funds to build these teachers' houses, so we could provide for better teaching for the Indian children.

Sister **Cooper**. Dr. Wayne Prett.

Mr. **Prett**. I think the Papagos try to see each opportunity, and this is another one, to present what are their greatest needs. They generally agree on all these other efforts to improve Indian education. But I think one of the messages they are trying to get across is that unless they have some basic construction, some permanency in the operation of the programs they have, that all those efforts, then, are watered down; they are not good.

The lack of construction, the need for construction has adverse influence on management options. One of the things that Public Law 93–638 gives them is management options, opportunities. A building can play a big part in influencing what kind of management option opportunities there are, and it should not have to be that way.

Last year 110 Papago students left the local public school and went off to Utah to a Federal boarding school at maybe several times the amount of money that it costs the Federal and State governments to educate the children at home because of the lack of a high school there, of an adequate high school with the overcrowded and other conditions that the members of the delegation have talked about.

I wish there were some way that we could even more dramatize these kinds of needs because they are absolutely essential if you are going to achieve the things that all of these special programs are after. On the whole there have been adequate funds for these things, but they have not been properly spaced to take care of the children.

Thank you.

Mr. Blouin. Thank you.

Sister Cooper. Just one more comment. We have over 100 children in Sherman Riverside off-reservation boarding schools and other places; but what we found out was that the California tribes are ready to contract Sherman. If they go ahead and contract, and do away with our children, we would not be able to house over 100 students because we do not have adequate high school areas.

Mr. Norris. I wonder if I can make another comment. There is a very important phrase in here that I like when they mention that a need criteria be used here, because there are well-to-do Indian districts in Arizona. The tragedy of school finance in the Southwest is that rich and poor alike get the same amount of money. In effect, the rich get richer, and the poor get poorer. That is why I say the local ability to raise revenues should be considered when the formula is given to the State. In other words, the poor should get more, and the rich districts less when it is applied to Indian communities. And the same with the surrounding communities around the reservation. There are middle-class communities that have high assessed valuations that will be drawing Federal moneys because they take Indian students. I think that is wrong. They have enough local money to educate those children that are around the reservation.

I think this needs to be seriously looked at.

Mr. Blouin. Thank you. Dan, do you want to present the Navajo testimony?

[Prepared testimony of Daniel Peaches and Wilson Skeet follow:]

Testimony by Rep. Daniel Peaches,
Representing and on Behalf of the
Navajo Nation, Window Rock, Arizona

February 8, 1978

Mr. Chairman, Members of the Committee, Ladies and Gentlemen:

On behalf of the Navajo people, I appreciate this opportunity to present my views on H.R. 9810 in particular, and Indian Education, in general.

My name is Daniel Peaches. I am one of the staff assistants to Peter MacDonald, Chairman of the Navajo Tribal Council. I am also a delegate to the Arizona State Legislature for the last three years as a state representative.

Education for the Navajo people comprises several facets, but the most enduring has been the traditional teaching which includes moral teachings and teachings based on sacred customs and ceremonial activities. Today, formal education for the Navajo young people include public schools, Bureau of Indian Affairs Schools, mission schools and, lately, contract schools. These diversities of education afford the Navajo both good educational opportunities as well as obstacles. They can be a source of problems such as jurisdictional conflicts, lack of educational standards and, in some instances, deprive our young people of equal and quality educational opportunities.

Therefore, to discuss legislation for a basic education for the Navajo people, would necessarily take into account the objectives of these different educational agencies.

Generally speaking, education for the Indian people in the past has been one that is conceived by a non-Indian, formulated by a non-Indian legislator, implemented by a non-Indian administrator, and executed by a non-Indian teacher.

Thus, when the Indian Education Act of 1972 and the Indian Self-Determination Act of 1974 became laws, there were hopes that Indians will at last have an opportunity to help develop, implement and review educational policies and programs that affect their children. But, today, we know much remains to be done.

The Navajo people, in addition to the above problems, have the additional handicap of being located in three states and a dozen different school districts. Thus, a standard education is next to impossible for the Navajo youths. It is the hope and the aspirations of the Navajo people that with the cooperation of the various state and local governments, and with the assistance of the Federal government, they will develop an educational standard that will guarantee equal and quality education for every Navajo child. This means the Navajo people must be granted the necessary authority to certify all educational activities within its borders.

Education of Indian youths, both on and off Indian reservations, has increasingly been assumed by the state public education system in recent years. However, as the cost of public education increases dramatically, both the state and local educational agencies are becoming very concerned about their ability to provide quality education for the Indian pupils.

It is in this respect that the proposed legislation under H.R. 9810 can provide the local educational agencies with the necessary resources to provide basic education for the Indian pupils. Adequate funding will be a critical element.

While the proposed law provides for a development of an education plan by the local educational agencies, the provision for Indian input is not clearly mandated; thus, Indian input may be more of a token reference rather than a requirement. This should be clearly stated.

The cost of educating the Indian youth takes into account several factors:

1. Isolation - both transportation and teacherage expenses are considerable.

2. Bilingual and cultural settings are much different so that both the teaching methods and educational materials have to be modified to reflect these differences and, of course, this makes for added expenses.

3. Facilities - because P.L. 815 and other legislations authorizing funding for school facilities have never been adequately funded, educational facilities on Indian reservations are in a state of critical inadequacies and are in poor conditions. Overcrowding and run-down facilities are the rule and not the exception. It is a shame that this legislation does not address this very critical problem.

In the provision for the development of an educational plan, it is crucial that the special and the unique needs of the Indian pupils be taken into account, and this means both parents and tribal officials be afforded opportunity to participate in the formulation and implementation of such a plan.

With respect to the BIA Education, I believe the shift of supervisory responsibilities to the central office should be done only with the understanding that eventually the various tribes would be allowed the opportunities of assuming the control of these schools. In this respect, contract school concept is only one of the several steps necessary to achieve the objective of total tribal control. As it is, contract schools cannot be the final objective because the Bureau still has the controls to manipulate them and this is still paternalism.

The portion of the resources now available for BIA schools should be converted to that of providing alternative education for Indian youths and not duplicate the state public schools. This means the Bureau resources could best be utilized in fostering Indian controlled schools to supplement the LEA efforts by such means as providing boarding facilities and evaluation of educational activities on the Indian reservations.

Finally, the reference to National Institute of Education and the National Center for Educational Statistics is highly questionable. Are these two institutions being made perpetual patrons of the Federal government by this legislation? I believe the educational standards can best be developed by a special commission which would utilize the best educational resources around the country and even beyond and not be limited to two institutions as proposed in this law.

In closing, Indian education must be comprehensive in scope, if it is to address all the problems involved and Indian education, if it is to be successful, must have the necessary resources to adequately meet the present and future needs. Finally, Indian education, if it is to be meaningful, must involve the Indian people at all levels and in all areas of responsibilities.

Thank you.

Statement of Wilson C. Skeet
Vice-Chairman, Navajo Tribal Council,
on H.R. 9810, Indian Basic Education Act,
before the
Elementary and Secondary Education Subcommittee
of the House Education and Labor Committee

February 8, 1978

Mr. Chairman, Distinguished Committee Members and Staff:

Navajo education is not under Navajo control. The Navajo Nation is served by three different State school systems. Many of these public schools are struggling with overcrowded classrooms and insufficient capital and operating funds. The Bureau of Indian Affairs Division of Education operates a parallel system with few standards, little coordination and scant community input. Not until very recently has the Tribe had an opportunity to influence - much less control - either system. Public Law 95-638, the Indian Self-Determination and Educational Assistance Act provided the first possibilities for change. Now H.R. 9810, the Indian Basic Education Act, offers real options for Tribal control of the direction of Indian Education. At least it can, if you will consider and approve the changes we are offering here.

Our goal is, simply, to move toward replacing the existing, fragmented educational delivery system with a single, appropriately decentralized system, under Tribal direction, with both Tribal government and local reservation communities sharing control. Such a system would promote better utilization of resources, provide students an increased opportunity to attend school close to home, and allow the introduction of curricula, standards, and a philosophy of education consistent with Navajo values. The provisions of the bill which allow for tribal control and influence over education are important factors towards achieving this goal.

Specifically, in the public school section of the bill, we strongly support the provision allowing for tribal participation and verification of the basic educational plans. Presently, we have little involvement in the basic educational programs of public school districts. What involvement we do have is restricted only to the supplemental programs.

We support the provision establishing a tribal role in the expansion of public schools. This is in the Navajo Tribal Code but it has been largely ignored and has frequently resulted in overcrowded public schools and underutilized Bureau of Indian Affairs schools.

A major concern we have is the section which claims not to relieve the State of any duty with respect to Indians being citizens of the State. We frankly are uncertain as to how H.R. 9810 will affect public school district funding. We suspect that efforts will be made to reduce the amount of state aid as Public Law 81-874 funds increase. We urge the Committee to study this problem carefully.

In the Bureau of Indian Affairs schools section, we are supportive of the basic premises inherent in the bill but some particulars are troublesome.

First, we do not understand why the National Institute on Education and the National Center for Education Statistics are to be charged with the development of standards for BIA schools. We are not familiar with these organizations and their ability to establish guidelines for Indian schools. Also, we question the extent of the "standards". Especially the continual reference to state standards. We feel that state standards are frequently inappropriate to Navajo education. Our opinion is that Navajo standards should apply as they are the most appropriate to Navajo education.

We have some concerns about the concept of direct funding. First the Tribe supports the premises for the direct funding principle but this must involve the responsible and appropriate body of the Tribe - the Navajo Tribal Council. It is very difficult to determine just what the effects of this system will be with respect to BIA education.

Our first concern involves the workability of the administrative element. Getting prompt action from Washington level offices has often proven difficult. In addition, the Navajo people are familiar with the process of dealing with BIA Area officials. This includes, of course, knowledge of and friendship with the individuals holding the key positions where decisions are made.

We wish to stress some basic notions which we hope you will very seriously consider in the mark-up of this bill. First, we urge you to not bypass the authority of the Tribal Council. At a minimum, the Tribe recommends that a clause similar to that contained in the public schools section be inserted which would allow for the Tribes to exercise control in terms of program approval or accreditation of schools. Additionally the Tribal Council should have the authority to review and approve annual budgets for the schools. The Navajo Tribe basically concurs with the authority given local boards in this section. However, we do not feel that the granting of this authority is contingent on direct funding.

The Navajo Tribe is served by three states containing more than 15 schools districts, five different BIA agencies with 68 schools, and numerous mission and private schools. We are involved in developing relevant standards and hope to one day be in a position to create a unified system. We hope that any legislation passed will contain in it provisions to allow this and even to encourage it. A concern we have with the education personnel section is the provision requiring educators to meet the certification standards of the State in which the educator will serve. Again, we question the need to enforce state standards on Navajo education. We believe Navajo certificates should apply. A recommendation in the appeals process is that a representative of the Tribe and the Area Director serve as an arbitration bond for settlement of disputes. The bill currently does not allow for any tribal government or Area-level participation in this process. In our case, the Navajo Area has jurisdiction over the five Navajo agencies. An appeals process which bypasses the tribal government is not advisable.

We totally support the section requiring the establishment of a Bureau education policy. The Bureau has effectively been without such a policy for all these years. This is potentially a major section of the bill and we urge the Committee to build a mechanism whereby tribes can participate in the development of such policy.

In this oral statement we have attempted to bring out our major concerns but we wish to submit a longer and more comprehensive written statement shortly. We plan to submit this report in a matter of days.

Thank you very much for this opportunity to explain our views on the bill.

STATEMENT OF DANIEL PEACHES, STAFF ASSISTANT TO PETER MacDONALD, CHAIRMAN, NAVAJO TRIBAL COUNCIL, ARIZONA

Mr. PEACHES. Yes. As you know, Mr. Chairman and members of the committee, there was a statement submitted by Vice Chairman Wilson Skeet, and also a statement that I have submitted. We request that they both be put in the record. Also, I have some material, studies and statistical information that the staff members of the subcommittee might use, which I will submit to the staff here.

I guess the Indian people across the country in recent years wanted to have a greater control input into the education of their children. They feel that the Indian culture and Indian heritage is not an obstacle to learning; they believe that should be incorporated into the teaching and the upbringing of young people, so that they can appreciate their cultural heritage and also become aware of their identity so that, whether they live in a white society or Indian society, they will be able to make adjustments.

The tragedy of Indian education in the past has been that they tried to educate Indians from the standpoint of non-Indians, and I think that was a great tragedy. Since the 1970's there has been an effort to change, reverse this trend with the Indian Education Act, Title IV, which provides for Indian input, and also the Indian Self-Determination and Educational Assistance Act, which provides for contracts and greater tribal control.

I hope that this legislation is another step beyond that, to give the Indian people greater input into public schools, and also those schools operated by the Bureau.

With respect to the Navajo Nation, of course, first of all, our reservation is located in three States. One of the concerns that the Navajo leadership has, has been what educational standard is the one that we should use for the teaching of our young people; should we use New Mexico's standard; should we use the education the Arizona public schools have, or should we use the Utah. There really is no way to bring about standards at the State level.

So, the tribal government, through the division of education of the tribe has, tried to establish a standard that they feel the Navajo people should have throughout the reservation in these three different States.

Also, the tribal government is trying to get authority to certify educational curriculum and other administration of education on the reservation, so that tribal input and tribal needs can be met at the reservation level. This is one of the concerns that the Navajo people have.

I believe, Mr. Chairman and committee members, that the bill which makes reference to educational planning has a great opportunity for the Indian tribes can develop a plan that would really address the needs of the Indian students in their particular area. I hope in the rules and regulations this will be stressed.

Also, the standards should be incorporated, basic educational standards. This is a great issue across the country even today. People are saying we should go back to the basics. I think the Indian people feel that the education for the young people should be one that will enable them to get a job, become competent, have skills to function in the non-Indian society as well as in the Indian society. Of course this requires a combination of cultural education as well as basic skills.

The only concern I personally have about this legislation is trying to maintain a divided house between Bureau schools and public schools. I think this is one reason why the State public schools and State legislatures say that the Indian education is the responsibility of the Federal Government and the Bureau schools, and we should not do anything in that area. This needs to be resolved. I think it can be resolved by having the Bureau of Indian Affairs and the State governments cooperate and coordinate their efforts, because I feel, from our experience on the Navajo reservation, there is a need for boarding schools. Whether there is a need for BIA education I do not know, but there is a need for boarding schools because of the distance and the isolation factors. There is a need for boarding schools.

And I think the Indian tribes across the country also want their children to go to school closer to home. I just wonder why the Interior Department still maintains the Riverside and others, far-away schools, far from the Indian communities. The Indian people feel that their children should be educated closer to home. That is why some of the tribes are contracting their own schools, so that they can have a school right in their community, community-based schools. So, this needs to be addressed.

The testimony presented here on facilities, they are very critical. The State public schools say that facilities can be built by local resources, local tax levies. This is very difficult on Indian reservations. So, we have to go back to 815, and 815 has never been adequately funded to construct facilities.

The other thing is transportation for public schools. In the State of Arizona we had a crisis, for 2 years, with respect to transportation. We passed legislation in the Arizona Legislature which would provide transportation aid on the basis of mileage, rather than the number of students. So, this will relieve some of the costs of transportation.

So, Mr. Chairman and committee members, I guess our concern is for quality education; for tribal control; and in the case of the Navajo Nation, they want to take one more step further, and that is to have an educational standard certified by the Navajo Nation, such as the State government has educational standards. I think that is the only way we can insure quality and equal educational opportunity for all the Navajo students and the Navajo Nation.

With respect to the BIA portion of the bill, the administration of education from the central office was once maintained by the Bureau; then they changed to the area level; now they are switching back to central administration, again. I believe this central administration should have the understanding that the BIA, under the Interior Department, when they have the administration of education, their aim, objective and goal should be to have the Indian people assume most of those Bureau schools at the reservation level. I think that should be a process, rather than just a status. There should be a process toward tribal takeover of the Bureau schools.

These are our concerns I wanted to mention to you. If you have any questions, I will be glad to answer them.

Mr. Blouin. Let me ask both you, Dan, and the Sister. If this bill were passed exactly as it is, if there was no change made—which is highly unlikely—the funding levels were met, but the particular, specific problems you see in there were not, would you think that in the overall scheme of things—in both the Papago and the Navajo—that your tribes would come out with a better shake and more input in education?

Mr. Peaches. I think so. But their rules and regulations have a lot to do with it.

Mr. Blouin. What they do to whatever we pass.

Sister Cooper. That is what I was going to say. It would conflict with the Arizona State Law, because unless the State of Arizona Education Department comes out with an educational plan and negotiates with the tribes as to how they are going to work together in the operations, I have a feeling that again we are going to have problems with the state.

Mr. Blouin. How would this specifically conflict with Arizona State law. You mean in terms that they would take the State aid away, take funds away; or is there something specifically in the act that runs contrary to what the State law dictates?

Sister Cooper. I think it would depend on how the formula is provided, how you State the formula. If the formula is not strong enough, what we are afraid of is the decrease in funds.

Mr. Blouin. To be sure they should not take everything away from the State; it would be a different source, but the same amount of dollars.

Sister Cooper. Right.

Mr. Blouin. We are trying to work out some kind of minimum floor, or a limit on how many dollars a State can deduct, depending on their own foundation formula. You seriously run into some constitutional problems, whether you can dictate to a State how many dollars they have to put into the matching pile. But I think you can certainly limit the tradeoff and flow of dollars in.

What I would like to see done, when we have finally worked out a formula that deals with these kinds of problems, that we stick every school district that would be affected by this, every individual school into a computer and see whether everybody makes out with more dollars or not, even with the State formulas, as they vary. You are dealing with such a variance from one State to the other, it is a real jigsaw puzzle to try to piece it together.

Sister Cooper. I am not sure, but I also see some difficulties. We have reservation students in the Santa Vera area that go to Sunny Side in Tucson; we have students in Gila Bend that go to Gila Bend public school, but they are from the reservation. We have Casa Grande, and there are students there. I guess it depends on how the tribal government comes up with an educational plan. In these areas, they are strictly all non-Indian school boards, and I do not know what type of problem this will create, unless the tribal government paid them by tuition, or whatever, some type of an educational plan.

It would be hard to help the students that do come from the reservation into the near public school off the reservation.

Mr. **Blouin**. I think that is true. Dan?

Mr. **Peaches**. I am just afraid the State is going to interpret this as letting them off the hook, so to speak, as far as their responsibility to Indian students is concerned. I am just afraid they are going to say, "This is all the money".

Mr. **Blouin**. They sit back and smile, and tear up the checks.

Mr. **Peaches**. On that point of financing I would like to ask Mr. Eddy Brown from the division of education, he worked for Johnson O'Malley; maybe he has some comments.

Mr. **Blouin**. Sure.

Mr. **Peaches**. He represents the Navajo Division of Education.

Mr. **Blouin**. Mr. Brown, where are you?

Mr. **Brown**. Good morning. There has always been a problem of public school funding on the Navajo Reservation because of the way the State finance system is in Arizona. Through my work with the Johnson O'Malley program I became aware of the deficiencies that the State funding formula in Arizona creates on the reservation.

Two years ago a lot of school districts on the Navajo Reservation were experiencing deficits because of the way the financial system was for Arizona. Part of the deficits were being taken care of by Johnson-O'Malley's basic support funding. In a way it seems to me that Johnson-O'Malley support funds should have gone into other uses, rather than to help school districts on the reservation out of their deficits.

One of the problems that contributes to this is lack of adequate financing for public schools on the reservation, the vagueness in the educational state standards that are in the Arizona statutes; they are vague, and there are no uniform or definite standards in comparison to the standards that New Mexico has. As a result it is hard to determine what is basic support, and also what kind of cost is considered as basic support. That was one of the problems we have had in reference to determining what was really basic operational support costs for the schools.

The other thing, the State finance laws never take into consideration the various isolation costs that increase the cost of educating Indian children because they are on the reservation because of the distances they have to travel to the schools; because of lack of facilities. There is also a higher housing cost, a higher utility cost on public schools which are situated on the reservation. Because of all those things, that compounds the whole issue of adequate financing for public schools. Thank you.

Mr. **Blouin**. If there was something in that formula that would require that each State have their formulas up to the average per pupil expense before Federal funds would go in, how do you think Arizona would respond to that? Do you think they would cuss and moan, but make sure there were enough dollars there? Or, do you think they would say, "The heck with it"?

Mr. **Peaches**. Well, at the time we were experiencing these deficits in reservation schools—this goes to Papago, too, I think, besides other schools on the Indian reservations—at that time there were possibilities that some of these schools were on the verge of being closed down. At that time the State legislative leaders were saying, "We are going to do what we can to solve the deficit problem." But how they did it, they went to the Bureau of Indian Affairs and got an advance to bail the school district out.

So, the State never really dipped into their pockets to bail them out, they just got an advance from the BIA to bail out these deficits. But in later discussions the legislative leaders were saying, "We want to sit down with the Federal Government to see just what portion they want to fund because everybody is not sure whether the line is over here—the line is here, or where. We want to sit down with the Federal Government to put it in black and white just how much they are willing to spend, pay for the expense. And then we, the State, can say we are going to go up to this point, so we understand where we are. If there is a gap inbetween, we will try to close that gap."

That was the concern of the State leaders, they were willing to sit down. But they never really sat down to work out the problem. Maybe we could present it to them. My own personal opinion is, the amount of tax levy that comes from the school district in a reservation, plus State aid, should be the State's responsibility. Anything over and beyond should be provided by the Federal Government in lieu of local tax levy, or even in lieu of tax that goes into the State treasury.

This would mean that you would have to do a close study of the revenues that come out of the reservation to the State treasury, and come up with a formula, or a determination as to just how much the State is getting, and how much they should be putting back. I think where there is a lot of Federal land the school districts do suffer because of lack of a tax base. I think that should be covered by the Federal Government, that portion should be covered by the Federal Government; then you have plus the Title IV and Johnson-O'Malley for special educational needs, cultural education, counseling, remedial education, bilingual education. That should be supplemental to give the Indian students an added boost to compare with the rest of the non-Indian students' ability to cope with learning new skills and be able to function in a non-Indian society.

That kind of a meeting needs to take place, I think, in the Navajo Tribe and other tribes in Arizona and New Mexico, and other States who have a similar problem, to come up with some kind of a plan.

Sister **Cooper**. I don't think there is any problem as far as ADM, but as far as equalization plans, I feel there is going to be some problem with the equalization plans, as far as membership.

Mr. **Blouin**. Well, we are going to play around with different formulas. One approach is to say that before a State can deduct anything they have to at least bring it up to an average per pupil in attendance. Another approach would be to have an entitlement, or floor. You use the same formula that we have, only add an additional limitation to it, a broadening, saying that in no event shall a school district receive less than so many dollars per pupil.

Mr. **Peaches**. Well, the State of Arizona is planning to do another equalization financing thing in 2 years. The one that they developed, which is in effect now, is 2 or 3 years old, and they say that is all out of proportion again. So, like Mr. Norris here says, the poor get poorer and the rich get richer. So, they are now saying the legislature should have a special session in 2 years to redo the formula so that every child in Arizona will have an equal amount of dollars behind that child.

One of the reasons is, they put in a nuclear powerplant west of Phoenix, about 40 miles west of Phoenix, that powerplant is supposed to generate billions of dollars in revenue. There is a school district in that vicinity that has something like 22 students. So, every student will have $1 billion.

[Laughter.]

Mr. **Peaches**. So, on that nuclear plant they want the law to be changed so that the revenue will be statewide. Of course, there will be a lot of screaming, but they will try to do that, try to boost it so that the other districts can have more dollars behind them, too. That is just in the planning stage.

Mr. **Norris**. I would like to just point out some inconsistencies in the present school finance formula because in the last few years I have been in a rich Indian district and I have been in a poor Indian district—I know the difference. When I was at a unified school district in northern Arizona, if we needed buses, we could call for bids tomorrow, we had that choice because we had an assessed valuation and local effort that we could do that. But in the district that I am in now, where there is no assessed valuation to speak of, there is no choice. We just run the old buses this year, next year, and the next year; just keep them going, keep them together by bailing wire.

Mr. **Blouin**. What do you think is the reason for that?

Mr. **Norris**. Well, you get back to the old school finance formula.

Mr. **Blouin**. It depends on the State formula, that is your problem?

Mr. **Norris**. It goes deeper than basic support. See, all we are talking about here is basic support. We have to talk about buildings. Right now we do not have the money to even keep up our buildings. Water is coming through the roofs. We do not have the money to improve our capital outlay projects or even, to maintain them.

Mr. **Blouin**. Are you talking about the public schools, now?

Mr. **Norris**. Right. We do not have the money to fix up, or buy buses that we need. These generally come from your local capital outlay levies, from your assessed valuation. We just do not have that money to do it. So, the buildings are rotting, buses are falling apart. The only thing that is being done now is, the payroll is being met, that is all.

Mr. **Blouin**. I have two questions, or, one question and one comment. Sister, you raised the subject of preschool programs. I think there ought to be room in this bill for that. I have not talked to Congressman Quie, and I do not want to commit him to something he has not thought through, but where it exists, where there are

147

areas that would like to develop a kindergarten or prefirst grade program, I think it is just logical that the funding be available. I would like to expand it.

Sister COOPER. We are receiving comments from the public school teachers from new transfers into the public schools already, and from there we carry them through.

Mr. BLOUIN. They progress better.

Sister COOPER. They were 3 years behind.

Mr. PRETT. Congressman, let me add, up until last year Papago children had the dubious honor in the State testing program to be at the bottom, or almost the bottom, of 162 public school districts—they are third graders bceause that is a standardized test given across the board. But last year they had their first group of second graders that had had this prefoundation program. They have always been at the bottom of the list because education has come late for the Papago. But last year their second graders tested in the middle and upper grade group, which gives them the first hard objective data that their preschool programs are paying off, at least in terms of performance, school grades. They feel very encouraged about it and it has given them a lot of heart in extending their preschool programs. This is a very important thing that you just said, that they get that included here.

Mr. BLOUIN. I cannot guarantee it will be an addition, but I can guarantee I will work for it.

Mr. KILDEE. On that point, will you yield, Mr. Chairman?

Mr. BLOUIN. Yes.

Mr. KILDEE. The preschool program, is it just kindergarten?

Mr. PRETT. Yes; 3- and 4-year-olds.

Mr. KILDEE. I really strongly support such a plan. There are some of us who by luck and blessing have been able to send our children—I have three children—to preschool. They were 3 and 4 years old, what a tremendous advantage it has given the children—it is hard to measure, but it is there, just a tremendous advantage.

It is a shame that our society does not recognize this should be a right for all children. Wilbur Cohen of the University of Michigan stresses strongly the importance of what we call early childhood education. I think it is extremely important that we do this. We do it for those who can afford it, but we do not do it for everybody. I think we have, as a society, an obligation to do so.

Thank you, Mr. Chairman.

Mr. BLOUIN. Thank you. Do you think, if such a program were available for preschool children, do you think the Navajo would utilize it; are there preschools there?

Mr. PEACHES. There are some, but again, the only funds that we have, that we can use, are generally in Title IV, parts (b) and (c), where we can set up early childhood education. But there again, the funding is not enough to address the needs of the Navajo people at the level necessary to reach most of them. So, there funding is a problem.

And the second thing is again facilities, like she said of the Papago, they have Title IV programs, but again, there was no provision for facilities.

Mr. BLOUIN. You cannot have one without the other.

Mr. PEACHES. Yes.

Mr. BLOUIN. Do either of you, or any of you folks, see any conflict between the general thrust of H.R. 9810, this bill, and the Indian Self-Determination Act? Is there anything in it that is in conflict?

Mr. NORRIS. Well, I would say maybe the duplication of policy and decisionmaking, there is a suggestion of it. You know, you have your public school board there, and then also you have whatever committee is required by the bill. You see what I mean? You have two conflicting bodies that may be there trying to exert policy and decisionmaking.

Mr. BLOUIN. Those are there today, except that the Indian has no real conrtol over the policy and decisionmaking in the public school setting. There is input required by the law, but there is no requirement that they accept the input.

Mr. NORRIS. But you see, a situation develops at Indian Oasis where you do have an all Indian school board. See, you are applying something that is normally said about neighboring districts, to us.

Mr. BLOUIN. Do you think there are situations like that, where you either have an all-Indian, or Indian majority controlled public school board, that that authority can be mutually shared directly between them and the tribal council; or is it exclusively in the hands of that school board? How would you want it?

Mr. NORRIS. I would say so because, according to Arizona law the school board is the legal decisionmaking body and policymaking body. I just see that there is going to be a conflict there. Who is making decisions here? Who is setting the educational standards, you see?

Mr. BLOUIN. I see.

Mr. PEACHES. From the tribal standpoint, I guess, there is a concern that this bill may be misconstrued by those that administer the law. There is less emphasis on tribal trust status, Federal trust relationship with the tribe. This really addresses the practical aspects of the problem, which is resources for educating Indian children, and it really forgets about the trust and moral obligation of the U.S. Government.

Mr. BLOUIN. I am going to clarify that, I am going to make that very clear in the bill.

Mr. PEACHES. So, that is the only concern from the tribal standpoint.

Mr. BLOUIN. How would you make it very clear in the bill that this is not a weakening of that trust relationship?

Mr. PEACHES. Well, I think in the development of the educational plan, strengthening of the language. Also, the present language says the Commissioner on behalf of the welfare of the children, if he sees it jeopardized, he can go ahead and ram through something; the same way the director of education. That needs to be clarified.

Mr. BLOUIN. Thank you all for being with us, we appreciate it very much.

[The statements follow:]

WRITTEN STATEMENT OF THE NAVAJO NATION ON THE INDIAN BASIC EDUCATION ACT, H.R. 9810, TO SUPPLEMENT THE ORAL STATEMENT OF WILSON C. SKEET, VICE-CHAIRMAN, NAVAJO TRIBAL COUNCIL, before the SUBCOMMITTEE ON ELEMENTARY, SECONDARY, AND VOCATIONAL EDUCATION OF THE UNITED STATES CONGRESS

February 8, 1978

The goal of the Navajo Nation is to move toward replacing the existing, fragmented educational delivery system with a single, appropriately decentralized system, under Tribal direction, and with both Tribal government and local reservation communities sharing control. Such a system would promote better utilization of resources, provide students an increased opportunity to attend schools close to home, and allow the introduction of curricula, standards, and a philosophy of education consistent with Navajo values. The provisions of H.R. 9810 which allow for tribal control and influence over education are important factors towards achieving this goal. The Navajo Nation thus supports the basic premises of the bill but specific provisions present problems.

More specifically, concerning the Public Schools Section, on Section 2, the Navajo Tribe is served by three different state school systems. These states differ greatly in the way they handle their responsibilities for education of their citizens, particularly in the area of funding the various school districts. Consequently, it is probably true that the states would be affected in completely different ways. In New Mexico, we do not expect much difference with reference to the amount of money available to the school districts since that state operates under an equalization program and additional revenue from Public Law 874 would only mean more money in the state treasury. New Mexico does guarantee adequate funding to the school districts to meet the established state standard. However, no such guarantee exists in the State of Arizona. No real state standards exist either and so it is with the State of Arizona that significant changes could occur. Predictably, the Arizona Reservation-wide Public Schools Association has examined the proposed legislation and their comments are recorded.

The Navajo Tribe wishes to stress certain areas where we support the bill and where we have concerns.

First, we strongly support a tribal role as it concerns the basic education programs of the public school districts.

Presently, tribal people through various committees, have some involvement and even veto power over the supplemental programs for Indian children. However, the basic program, where the children spend the great majority of their time, has been off-limits to the Tribe.

Second, we support the provision establishing a tribal role in expansion of the public schools, noting that this is already one of the provisions.

of the Navajo Tribal Code but one which has often been ignored and has sometimes resulted in overcrowded public schools and underutilized Bureau schools.

On the concern side, we question the workability of the tribal options in cases where no agreement is reached between the public school and the Tribe. Most of the districts involved are large and it would not be feasible for the Bureau to take them over or for the Tribe to contract. The construction program in (J)(i) does not sound like a committment that could be depended upon. We have never known a Bureau school where construction was begun 2½ years after it started to be planned. Since no control could be exercised with reference to students attending the public schools, it would be next to impossible to determine how large a facility should be built and we suspect that funds utilized for such facility would be taken from another proposed construction site elsewhere.

A second concern we have is the section which claims not to relieve the State of any duty with respect to Indians being citizens of the State. We frankly are uncertain as to how H.R. 9810 would affect school district funding in the State of Arizona. We suspect that efforts will be made to reduce the amount of state aid available as 874 funds increase. We urge this Committee to review this problem carefully. The Tribe will also be studying the situation and working with the districts to develop an equitable system of funding for the Arizona reservation districts. Perhaps the Committee could consider requiring the State and local governments to levy a minimal tax rate to support local education. Otherwise, we fear an overall decrease of the level of funding to Indian public school districts.

An alternative to the proposed method might be to amend the present section of Public Law 874 which deals with "unusual geographical factors" to provide for tribal involvement and then specify that the Commissioner of Education implement the clause immediately. It has been very frustrating in the past that there are no procedures by which this potentially very important section of the law can be utilized though it has been on the books for many years.

We question the constant reference to state standards. The Navajo Tribe is well along in the development of tribal educational standards. Tribes should thus have the ability to implement their own standards which are more appropriate to their life.

We also question the provision requiring Tribes to notify the BIA five years in advance of plans to transfer education to the LEA. This is unworkable and we wonder what the bill's drafters had in mind when they included this. The 10 year advance notice is even more unfeasible.

We are, then, basically supportive of this section and hope to maintain a close working relationship with those who are developing it. We realize the potential for positive change.

On the BIA school section, we will comment by section as follows:

Section 3 (a & B): We are uncertain why NIE and NCES were selected for consultation for the development of standards in BIA schools. We are not particularly familiar with the work of these entities and feel they may not be familiar with BIA schools. We definitely support the establishment of standards for BIA schools, however.

"Standards", of course, can refer to many different things. They can be very qualitative. They can include teacher requirements, student performance requirements and space per student requirements, as well as curriculum standards, teacher-pupil ratio, basic health program, etc.

As with the funding formula, it is important that the standards be viewed as a minimum base and that the authority of the "head of BIA" to alter standards based on tribal wishes (under (e)) be exercised in a flexible manner.

Both sections should allow for the use of tribal standards being used:

1. In lieu of the Bureau standards in Section (a).
2. As the minimum base instead of state standards whenever they have been developed in Section (d).

Section 4 (a): This study is needed since a uniform criteria would be most helpful to students, but input from Areas and Agencies as well as tribes is vital.

Section 5 (a): Present BIA facility conditions are below acceptable standards and we believe there is a much bigger problem in the area of health and safety standard violations than anyone supposes. We ask your consideration also for the reservation public school facilities which also may not be able to meet these applicable standards and urge that you consider their inclusion in this section.

Section 6: The Tribe approves of this section and recommends language be added to provide local education agency status to Tribal schools for the full range of education and other federal services available to public schools.

Section 7: It is recommended that there be a requirement that the Tribes be involved in the development of these regulations.

Section 8: It is clear that this section proposes drastic changes from the historical organization system of the Bureau. Area and agency education personnel seem to be superfluous to the education mission. We wonder if even the Washington Office is capable of administering the day to day operations without delegating authority to the Area and Agency Offices. We believe that programs would become excessively fragmented particularly in Navajo Area where there are five agencies and sixty-eight educational facilities all serving a single tribe - the Navajo. The bill should not allow this to occur.

Section 10 (b): The idea of establishing a minimum allotment is very good. The main factor in determining the amount should be that which is necessary to meet the standards established under Section 3. We see no reason for the exception mentioned under (b). A given public school by virtue of small size or other factor might require more operating funds than a large BIA school in the area. That would be no reason to give the BIA school more funds than is necessary.

Item (c) is very necessary if the system is to work; however, this fund should be kept to a minimum and should not be used as a slush fund. Also, in addition to the BIA Superintendents, the advice of the affected Tribes should be considered.

Section 11 (a) (i): We have some concerns about the concept of direct funding. First, the Tribe supports the premises for the direct funding principle but this must involve the responsible and appropriate body of the Tribe--the Navajo Tribal Council. It is very difficult to determine just what the effects of this system would be with respect to BIA education.

Our first concern involves the workability of the administrative element. Getting prompt action from Washington level offices has often proven difficult. In addition, the Navajo people are familiar with the process of dealing with BIA Area officials. This includes, of course, knowledge of and friendship with the individuals holding the key positions where decisions are made.

This bill deals with the education of our children and, as such, we cannot view it in terms of administrative efficiency or bureaucratic expediency. We must consider what is best for our children and over which system we can exert the most positive influence.

We wish to stress some basic notions which we hope you will very seriously consider in the mark-up of this bill. First, we urge you to not bypass the authority of the Tribal Council. At a minimum, the Tribe recommends that a clause similar to that contained in the public schools section be inserted which would allow for the Tribes to exercise control in terms of program approval or accreditation of schools. The Tribal Council should have the authority to review and approve annual budgets for the schools.

The Navajo Tribe is served by three states with over 15 public school districts, the BIA broken into five different BIA agencies, and numerous mission and private schools. We are involved in developing relevant standards and plan to create a unified system. We hope that any legislation passed will contain in it provisions to allow this and even to encourage it.

The Navajo Tribe basically concurs with the authority given local boards in this section.

Section 13: Provisions should be made for disputes between boards and supervisors on occasions when boards direct line officers to do something which the line officers view as illegal or totally unwise. It appears that too much control without commensurate responsibility is given away in this section. The question of liability of the school board arises since there is absolutely no hedge on the amount of authority given to the boards. In fact, the boards are given more authority than contract school boards which are at least subject to their contracts and thereby need Bureau approval to set and change the budget. Could a board approve salaries to board members of $10,000 per member and get away with it? It appears that they could.

We question (b)(2)(A), requiring teachers to meet state certification standards. Again, we believe Navajo standards should apply. Teaching standards of Phoenix, Arizona, will vastly differ from those at Chinle, Arizona, on the Navajo Reservation. Tribal, or "applicable", standards should apply.

Part (2); We agree with this method of tribal participation.

Part (3): This Section appears to be acceptable. Perhaps the Tribe should be able to take over the local board's authority when it deems necessary.

Part (h): This section is unclear. Does it just apply to grants or to contracts as well? Does it mean that no contract would be given to a tribal entity unless the Tribe had agreed to a plan for contracting the entire Bureau education program serving that Tribe? Or does "control" refer to the control referred to in Section 11, (a) (1)? Could a tribally-sanctioned entity continue to contract with the Bureau for the various services which they now perform? Just why this section is included is unclear. The tribes should be able to determine what grant monies should be used for. This section would actually limit or amend the regulations of 93-638.

The appeal process is very necessary and should work with disputes. When boards recommend that employees be discharged, there should be some obligation on the part of the supervisor to follow up on the matter. As presently written, there is no such obligation. Also, the appeals process should not bypass the Tribal government. The Tribe and Area Office could serve as the Navajo arbitration board.

Under this law, Indian preference would at least have something to do with the preference of the Indians. This is very necessary and important.

Section 14: This information system should also serve the affected tribes.

Section 15: (See comments on Section 12)

Section 16: No comments.

Section 17: This is much needed and is a very proper response to the need for Indian educators and administrators.

Section 18: The Navajo Tribe feels an Annual Report such as mentioned in this section is an excellent idea. Such a report should include financial information and should also be provided to the tribes.

Section 19: No comments.

Section 20: No comments.

Section 21: No comments.

Section 22 (4): The Bureau needs to put out something by way of official guidelines with respect to the establishment of BIA school boards. Otherwise, there could well be difficulties with representation. In the absence of this, perhaps this law should establish BIA school boards, much as the Public Law 93-638 law and regulations established JOM Indian Education Committees. This is presently no legal reference to BIA school boards anywhere except for what appears in our Navajo Tribal Code.

We hope that the Subcommittee will address our concerns earnestly and diligently and will advise us of their response and/or action thereto. We thank the Subcommittee for soliciting our review and comments.

COMMENTS OF RECOMMENDATIONS OF THE NAVAJO DIVISION OF EDUCATION REGARDING H.R. 9810, PREVIOUSLY KNOWN AS H.R. 9157

I. Title and general intent of the Bill -

While amendment of existing laws may be the easiest or most convenient way to bring about legislative change, and while the framers of H.R. 9810 undoubtedly meant well with respect to American Indian education, the Navajo Division of Education hereby petitions that certain basic issues concerning the substance of the Bill be addressed before its enactment.

The first of these concerns tribal sovereignty and the Treaty of 1968 which recognized the Navajo Tribe's sovereignty and creates a certain relationship between the Navajo Tribe and the United States Government which is different from the governments, relationship with non-treaty tribes. The proposed law seemingly brings most, if not all, of Indian education under 874 and therefore does away with the special relationship which used to exist either by way of federal obligation or recognition of existing treaties in the case of certain tribes. In other words, the Bill, as drafted, brings most of Indian education within the scope of free education which necessarily should not be the case where treaties provide terms to be met. Moreover, the Bill is not all that compatible with Indian self-determination in that it superimposes the kind of relationship desired from the top.

A second concern is tribal authority over Indian education either by way of its involvement in school district plans for Indian education or through elected school boards in the case of schools operated by the Bureau of Indian Affairs. The tribe's involvement could be extensive in the proposed way of operating 874 at the local level by way of education plan approval and budgetary sign-offs; however, as fars the tribe's role in the direct funding of Bureau schools, it is practically nil. This section of the Bill also purports to provide extensively for local control, but actually the Bill argues no more authority over the education of their children as is much the situation at present. To be "consulted" or to be informed does not mean being allowed to exercise authority. Nevertheless, if the Bill is interpreted to mean granting of authority and

and full responsibility to school boards for education provided by the Bureau, then there should be provisions for liability protection for the BIA school boards. If not, it should be openly conceded that the Bill does not enhance the school board's role in that manner.

A third area of concern is the requirement of "a plan of basic education for Indian students" and the prescribed entitlements of 874 funds for Indian children. It is possible that special provisions such as these may provoke that "white backlash" of which we hear more and more nowadays, especially if the Bill means comparatively more funds for Indian children, however desireable that might be Indians.

As to educational plans, the NDOE prefers a bill which strongly supports development of tribal education plans by tribes with the assistance of LEA's or school districts, where relevant, rather than a Bill which proposes to impose additional terms on school districts and/or the Bureau of Indian Affairs with only concurrence ("or else") by the Tribes or elected school boards. Perhaps, in this way, the possibility of "discrimination-in-reverse" charges could be averted.

Nevertheless, the Navajo Tribe's concern with the education of its people is not a recent development as reflected in the attached documentations:

Exhibit A: Strengthening Navajo Education, one of the earliest publications, is a monography stating the problems and setting forth some alternatives in Navajo education.

Exhibit B: Eleven Programs for Strengthening, Navajo Education is another publication depicting the Tribe's concern and describing programs developed by the Navajo Division of Education.

Exhibit C: A copy of a resolution of the Navajo Tribal Council mandating a comprehensive tribal education policy is also attached.

Exhibit D: Also attached is a current draft of the Navajo Comprehensive Education Plan which encompasses the policy mandated, but is yet to be promulgated by the Navajo Tribal Council after it has been duly processed through hearings at the agency and local levels within Navajoland.

Exhibit E: Copies of education standards developed, in consultation with others concerned with Navajo education, by the Research and Planning Department of the Navajo Division of Education.

Moreover, the Navajo Tribe, through its division of education, is experiencing operation of schools, such as the Shiprock Alternative High School in Shiprock, New Mexico and the Navajo Academy in Ganado, Arizona, respectively for drop-outs and exceptional youngsters. And it is extensively involved in professions development through locally-based programs contracted with.various institutions of higher education in the near-by states.

The Navajo Division of Education of the Navajo Tribe, furthermore, is desireous of attaining local education agency status for its schools designed to Strengthen Navajo Education and to lawfully fulfill the functions equal to those performed by state education agencies; and therefore, would like H.R. 9810 redrafted to very definitely provide such leeway for the education of their people.

Section 2: (Page 2) - Entitlement for Indian Children

a. H.R. 9810 permits public school districts to receive Indian 874 funds unless the "plan of basic education for Indian students" had been formally rejected. HR 9810 also speaks of the "designated representative of each Tribal Council of any Indian Tribe served by the plan." P. 4, line 9. This approach seems advantageous to the Navajo situation, since the Division of Education, if designated, could handle review of plans as an administrative matter.

b. HR 9810 provides that if the school and Tribal designee can not negotiate a plan, and the Tribe does not want to contract to run a school for the students, or have the Bureau operate one of them, the Federal Office of Education will make a plan. p. 7, line 12.

c. HR 9810 addes a considerable amount of detailed discussion concerning the mechanics of transfer of students requests. A discussion of the impact of this section contained in analysis in the impact portion of this memorandum. Suffice it to say here that if the Tribe withdraws students from a public school, the school does not need to obtain the Tribe's approval for the plan for educating those Indian students that do remain in public schools. p. 9, line 3. Also, in order for the Tribe to change its mind and move the students from the Bureau or contract school back to the public schools, requires at least five (5) years notice to the Bureau of the change, and ten (10) years notice if the Bureau has constructed new facilities. p. 9, line 17.

d. "Average per pupil expenditure" (the amount provided for basic support of Indian students by P.L. 874) will be the amount that the local school district spends rather than the State average as provided in HR 9157. See p. 10, line 20 of HR 9810.

e. "Plan of basic education" apparently means a plan for educational studies which best fulfills the academic, vocational and social growth requirements of the majority of students in attendance at schools of the LEA. p. 11, lines 15-19 of HR 9810.

COMMENTS, QUESTIONS, AND SUGGESTIONS:

This section speaks to authorization of payments to LEA based on the number of Indian children who attend school in the district but does two things which need careful review:

1. It excludes the Indian students who reside in urban areas; and who, in other legislations, are eligible for federal support.
2. Where LEA's are eligible, it makes all Indian students eligible to generate P.L. 874 funds for the State i.e., not only does the state take credit for these 874 funds, but there is also no set limitation for minimal number of Indian students qualifying public school districts. For example, Title IV requires a 10% of total school enrollment to be Indian and Title I requires only 10 eligible students in a school district.

The question would be: What affect this would have in terms of "large vs. "small" school districts? Or large Indian student population versus small Indian student population?

The criteria which have to be met before the "program of basic education" is approved needs further clarification:

Does this mean duplication of efforts, services, and funding of special programs as those funded by Title IV, Johnson O'Malley, and Title I, etc.

In reference to "standard education program of the State", this whole criterion may be hard to ascertain in some states, especially Arizona which has no recognizable standards. And how will "participation of Indian Tribal members" be determined? Enforced?

This section allows the Tribe to evaluate programs for the public schools. It also gives the Tribe authority to reject that basic education plan of the public schools, however, seemingly the Commissioner may ultimately allow the school districts to continue to receive funds.

The Tribe has an option of having BIA provide the educational services if the public school's education plan is rejected or unacceptable. The other option is to operate a school on their own. What if these two options are not appropriate or suitable, for whatever reasons, then what other alternatives are there fore the Tribe?

The section which speaks to equalization of payments allows the states to take credit for the 874 funds in determining its equalization formula, which should not be. If these funds should be treated as separate and apart from local revenues.

How will the concerning State responsibility provision be enforced, especially in Arizona where the state contends that education of Indian children is the responsibility of the federal government?

Section 3 (Page 12) - STANDARDS FOR THE BASIC EDUCATION OF INDIAN CHILDREN IN BUREAU OF INDIAN AFFAIRS SCHOOLS

Standards for the Basic Education of Children and Bureau of Indian Affairs School. The Bureau of Indian Affairs is required to develop academic standards for Bureau and Indian controlled contract schools. These standards shall be developed by the Office of Education in consultation with the Bureau of Indian Affairs. Indian points of view must participate in the formulation of the standards within one year of the passage of this Act, these standards shall be implemented by the Bureau in all of its schools and all Indian-controlled contract schools. The head of the Bureau of Indian Affairs is authorized to waive standards as he deems appropriate to take into account the needs of the individual Tribes as expressed by their Tribal Council. Such a waiver may only serve to increase the minimum standards. The head of the Bureau of Indian Affairs is not authorized to reduce academic standards as set by the study.

COMMENTS, QUESTIONS, AND SUGGESTIONS:

This section authorizes Health Education and Welfare to establish standards for basic education based on studies and surveys, and with Indian input, but BIA may alter these set standards. What is the use of establishing standards if it can be altered or waived by the head of BIA?

Section 4 (Page 14) - NATIONAL CRITERIA FOR DORMITORY SITUATIONS

National Criteria for Dormitory Situations. The Bureau shall conduct a comparative study of the costs of various Bureau boarding facilities and contract boarding facilities across the country. On the basis of this study, it shall develop national criteria for dormitory situations, including adult/child ratios, need for counselors, space, privacy, health and safety, and handicapped children. All facilities must be brought up to these standards.

COMMENTS, QUESTIONS, AND SUGGESTIONS:

1. How many comparative studies are necessary to come up with basic criteria for dormitory operations?
2. Why use national criteria when tribal criteria should be more relevant?

Section 5 (Page 15) FACILITIES CONSTRUCTION

The BIA shall bring all schools, dormitories and other facilities operated by the Bureau of Indian education into compliance with all applicable federal or state health and safety standards, whichever provide greater protection.

The BIA is to also have published in the Federal Registar the system used in deciding school construction priorities and a current list of all BIA construction priorities.

COMMENTS, QUESTIONS, AND SUGGESTIONS -

Again there is need for compliance with tribal standards, but the requirement that the BIA publish its priorities and its system for arriving at such priorities may help to provide the consistency now needed.

Section 6 (Page 16) INDIAN ELEMENTARY AND SECONDARY SCHOOLS ASSISTANCE

This section provides that an Indian Tribe will be deemed a local education agency for limited purposes, i.e. Title IV.

COMMENTS, QUESTIONS, AND SUGGESTIONS:

It is recommended that the Tribes seek to amend this language to provide local education agency status to Tribal schools for the full range of education and other federal services available to public schools.

Section 7 (Page 16) REGULATIONS

The Assistant Secretary of the Bureau of Indian Affairs, currently called Commissioner, is responsible for the regulations needed to carry out Sections 3 or 4 within eighteen months after the enactment of this Act.

COMMENTS, QUESTIONS, AND SUGGESTIONS:

Except with respect to the need for tribal standards and criteria, there is no comment.

Section 8 (Page 16) BUREAU OF INDIAN AFFAIRS EDUCATION FUNCTIONS

This section provides that the operations for the purpose of education within the Bureau are consolidated in the Office of Education Programs of the Bureau in Washington. Area Offices will function in a technical assistance capacity. Off-Reservation boarding schools may be delegated authority from Washington.

COMMENTS, QUESTIONS, AND SUGGESTIONS:

The technical assistance rendered by the area personnel should extended to the curriculum areas.

Section 9 (Page 18) IMPLEMENTATION

This section states that within six months of the passage of the Act, the Bureau of Indian Affairs must publish regulations regarding the transfer of function within the Bureau. Permanent channels of communications between the Office of Indian Education Programs and other Bureau of Indian Affairs Divisions must be established. Support services to education will be transferred to the Office of Indian Education Programs.

COMMENTS, QUESTIONS, AND SUGGESTIONS:

Returning support services to operation under the same roof as education sounds like a good move but it is not a new idea.

Section 10 (Page 19) ALLOTMENT FORMULA

The Office of Indian Education Programs within the Bureau shall determine the minimum necessary to sustain Bureau and Indian controlled contracts schools. Several factors are listed in the determination of the formula. The Bureau and the contract schools shall be funded according to the formula. The floor provided for any school is the amount of 874 Funds available to a public school in that area. The establishment of funds for emergency purposes is provided for in this section.

COMMENTS, QUESTIONS, AND SUGGESTIONS:

Hopefully the problem of contract schools taking funds from existing school systems can be prevented by this provision.

Section 11 (Page 21) UNIFORM DIRECT FUNDING AND SUPPORT

PREMISE:

The Bureau has six months in which to implement direct funding in support of all Bureau and contract schools. Notice of allotment shall go to the local level no later than the end of the school year preceding the year for which the allotment is to be made. Budgets will be prepared locally. The local school board has a veto and revision power over the budget unless unauthorized by the Tribal Council. Public Law 93-638, Technical Assistance Funds, cannot be used in the education area unless a Tribal takeover timetable is already established. The Office of Indian Education Program shall provide technical assistance to the local level from a technical assistance line item in its budget. The technical assistance shall be provided if requested by the local level.

COMMENTS, QUESTIONS, AND SUGGESTIONS:

This section to a great extent purports tribal control of educational system but only with respect to Bureau schools and in delimiting school board authority over budgets.

1. What implications does this section have for contract schools already in existence?
2. Instead of a tribe agreeing to a plan why not have tribes develop plans and have someone else agree to their plans?

Section 12 (Page 23) POLICY FOR INDIAN CONTROL OF INDIAN EDUCATION

This section provides that the Bureau shall foster Indian control in all matters related to education of Indian students.

COMMENTS, QUESTIONS, AND SUGGESTIONS:

The Bureau's long standing policy is made a law but in its same week version. Perhaps more activistic or assertive term should be used in lieu of "foster", as the term "foster", seems to be too accomodative to the Bureau's apparent conflict of interest in promoting Indian control.

Section 13 (Page 23) EDUCATION PERSONNEL

New employees of Bureau or contract schools will not be federal employees after this Act becomes law. The Bureau shall develop a teacher certification system. Teachers, supervisors and agency staff can be hired at the local level in consultation with local boards. These individuals may be fired by Bureau Administrators for cause. Appeals for both hiring and firing positions is available. The local board may waive Indian preference for any position within its scope of authority.

COMMENTS, QUESTIONS, AND SUGGESTIONS:

The school board is still limited to "recommending" or "being consulted" in personnel matters.

1. If these provisions are legislated as drafted, what would be the implications for the new contract schools and their school boards?
2. It is apparent that NASBA wants authority for local school boards but if its authority is delimited by legislation in form of an amendment to Public Law 874, is the Tribe's concept of self-determination?

Section 14 (Page 32) MANAGEMENT INFORMATION SYSTEM

PREMISE:

This section provides that a computerized management information system shall be established within the Bureau by the Secretary of Interior within one year after the date of the enactment of this Bill.

COMMENTS, QUESTIONS, AND SUGGESTIONS:

The elements set out here are a static system. There is no accountability to see whether or not the goals of the Act are being implemented by the Bureau of Indian Affairs. This oversight is significant. The provision also leaves out accountability to the Tribe and the school boards.

Section 15 (Page 33) BUREAU OF INDIAN AFFAIRS EDUCATION POLICIES

Office is given one hundred eighty days to develop a draft of education policies. They may then be revised and must be implemented within one year of the passage of the Act. These policies will "be the foundation for future Bureau actions in the field of education."

COMMENTS, QUESTIONS, AND SUGGESTIONS:

No provisions for tribal participation in the development of these policies is required by the law.

Section 15 (Page 33) UNIFORM EDUCATION PROCEDURES AND PRACTIVES

The various divisions within the Bureau must report in a uniform manner on the services and funds they provide to education. Reports must be made to Congress.

COMMENTS, QUESTIONS, AND SUGGESTIONS:

The requirement must also include support services to educational facilities.

Section 17 (Page 34) RECRUITMENT OF INDIAN EDUCATORS

The Goal of Indian recruitment in the field of education is to promote from within. Provision is made for training individuals for a position before they actually accept responsibility.

COMMENTS, QUESTIONS, AND SUGGESTIONS:

Why was not this made a part of the policy as stated in Section 12 on Page 23.

Section 18 (Page 34) ANNUAL REPORT

The Bureau shall make an annual report to Congress on its progress in the field of Indian education.

COMMENTS, QUESTIONS, AND SUGGESTIONS:

A report should be made to the Tribes and respective school boards as well.

Section 19 (Page 34) EFFECT ON BUREAU FUNDING

No existing source of funding to the Bureau of Indian Affairs is closed by this Act.

COMMENTS, QUESTIONS, AND SUGGESTIONS:

Hopefully not, as the Bureau is consistently underfunded all the time, but most often returns unexpended funds for Navajo education due to inflexibility.

Section 20 (Page 34) REGULATIONS

Sections 8 through 18 are to have regulations developed by the Bureau and promulgated pursuant to its consistency with section 431 of the General Education Provisions Act upon review for congressional review to take effect.

COMMENTS, QUESTIONS, AND SUGGESTIONS:

The process of promulgating regulations, as in cases aforementioned, provides no role for tribes. The regulations shall then be total Bureau.

Section 21 (Page 35) STUDIES

This section says that up to $1,000.00 of the sums appropriated under the Act entitled "An Act authorizing appropriations and expenditures for the administration of Indian Affairs, and for other purposes"; per commonly referred to as the Snyder Act; for any fiscal year may be used to carry out the studies conducted under section 3 section 4.

COMMENTS, QUESTIONS, AND SUGGESTIONS:

With the presupposition that studies are needed to bring into line programs administered for over one hundred years in the case of the Navajo Tribe, it would be expected that the Navajo Tribe be involved rather than consulting firms far removed from Navajo settings, such as N.I.E. Furthermore, what is the rationale for specifically earmarking "up to $1,000,000 of Synder Act funds for the studies to be carried out? Have not studies been carried out before by BIA-after 100 years?

Section 22 (Page 35) DEFINITIONS

Certain terms in the Bill are defined.

COMMENTS, QUESTIONS, AND SUGGESTIONS:

The listing could be more inclusive to cover vague terms such as "agency" and others so that non-reservation Indians and reservation. Indian can properly understand what such terms mean in relationship to their setting.

IMPACT OF H.R. 9810 ON NAVAJO EDUCATION:

A. The deemphasis on treaties, Tribal governments, and workable Tribal control is obvious. The bill seeks to place much responsibility on the local boards without recognizing the need for comprehensive harmonious coordination which a Tribal education system requires for effective operation. Tribal education plans and Tribal education agency status coordinate with SEA find no place in the Bill.

B. The 874 approach to Indian Education neglects the freedom of choice inherent in existing Navajo education. Public schools will do well under the Bill. The Tribal options provided seem limited. In order to be assured of funds to construct the many schools requested by each local area (See Navajo hearings, 1975) the Tribe would be (likely) forced to withdraw students from public schools to obtain construction funds. No guarantee that such funds will come about exists. It will be difficult to return to public schools once Bureau of Indian Affairs has control (5-10) years). Again the Bill presents options inharmonious with the existing freedom found in many areas of Navajo Nation.

C. Growing attention to

1. Defining future options in funding through 874, and
2. Education personnel system outside civil service appears in the new Bill. Tribal integration or involvement seems a rather small concern. The children don't appear prime concern.

D. H.R. 9810 appears to use the local public school district average per pupil expenditure as the basic support allotment for Bureau and contract schools (see p. 7-9) of the bill). Under this approach, if a Tribe couldn't work out a satisfactory education plan for basic education of its students with the public school, it could elect to have the Bureau operate a school for them, or else contract to operate a school for the students under the terms of the Indian Self-Determination Act. A contract would have to be made within 2½ years of the Tribal decision. If new facilities had to be constructed (likely in many areas of the Navajo Nation), such construction could not begin for a minimum of 2 years from Tribal decision, and there would be no guarantee of when actual construction funds would be available p. 8, line 10. Operation of Bureau or contract schools pursuant to this section would receive funds based on the average per pupil expenditure by the public school in the area. See p. 9, line 11-16, providing that 874 funds will be transferred to the Bureau for such schools.

E. The 5 or 10 year advance notice requirement for transferring students from Bureau or contract schools back to public schools has overtones of intimidation to Tribal governments in representing the best interests of their students. In the case of many local Navajo areas, this particular section appears to predict a loss of flexibility for individual parents and students in becoming deeply involved in the public schools while maintaining the flexibility to attend the Bureau or contract schools in the local area.

F. Personnel. The personnel section in H.R. 9810 has been reworked substantially from H.R. 9157. It appears that there remains a great deal of uncertainty as to the extent to which the Bureau has the power (or even if Congress has the power) to set up a system for education personnel which is not part of the Civil Service Commission.

G. Construction. While the P.L. 874 Tribal option provisions appear to place the Tribal designees in a strong position in terms of being able to force Bureau construction, the Bureau lacks any provisions which would force the Federal Government to actually construct educational facilities. Whether for school buildings or dormitory facilities, the needs have been expressed repeatedly in the 1975 local hearings across the Navajo Nation that such facilities are desperately needed. Without teeth in the Bill would provide funds for construction and force the Bureau to provide them the various options presented in the Bill may not come to fruition. In any case, the basic support for Indian education appears to be settling around the amount of money that the local public school district spends for the average pupil currently enrolled. The trend from H.R. 9157 to H.R. 9810 seems to carry out this perspective. Again, it is important to recognize that the average per capita expenditure for students in contract or Bureau schools is at the present time, at least twice that for the neighboring public school. Under the terms of this Bill, that floor would be reduced to the amount the public schools currently spends (without regard for whether or not the public school expenditures are adequate to provide for the basic education of the Indian student).

Summary and Conclusion

H.R. 9810 was introduced by the same people who introduced H.R. 9157. The new Bill appears to have been reworked in the area of Tribal options and educational personnel to meet major objections or gaps pointed out in the original Bill. This settling and coalescing without adequate attention to the Tribal needs is disturbing, especially in light of the goals and needs articulated in the 11 programs for strengthening Navajo education and strenthening Navajo education pamphlets. The Bill appears to solidify the current Bureau public contract school distributions as they now exist rather than encouraging or making possible the harmonious unification of these into a Tribal education system as outlined in the publications just mentioned and repeatedly stressed in the local hearings conducted in 1975.

CJN-40-75
Class "C" Resolution
No BIA Action Required.

RESOLUTION OF THE NAVAJO TRIBAL COUNCIL

Providing that the Education Committee of the Navajo Tribal Council be Authorized to Prevent the Impending Loss of BIA Schools Due to Declining Enrollment, and Providing that the Education Committee Develop a Comprehensive Navajo Educational Policy for Approval by the Navajo Tribal Council

WHEREAS:

1. The Education Committee of the Navajo Tribal Council has reviewed numerous resolutions from local school boards, chapters and agency councils requesting that BIA education be strengthened; and

2. The Education Committee of the Navajo Tribal Council is also very concerned with overcrowding in Reservation public schools, and with the long school bus rides which tire the Navajo students and consume excessive amounts of their time and seeks means to provide relief for these problems; and

3. The desires and attainable objectives of the Navajo people in education must be expressed in an understandable policy statement in order to consistently and effectively advance Navajo education, prevent the loss of BIA schools, and overcome present conflicts over policy.

NOW THEREFORE BE IT RESOLVED THAT:

The Education Committee of the Navajo Tribal Council in cooperation with the Navajo Area Office of the Bureau of Indian Affairs, the State Boards of Education for New Mexico, Arizona and Utah, the Navajo Division of Education, and the Navajo Area School Board Association, is directed to prepare a comprehensive Navajo Education Policy Statement for consideration by the subsequent session of the Navajo Tribal Council.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Navajo Tribal Council at a duly called meeting at Window Rock, Navajo Nation (Arizona), at which a quorum was present and that same was passed by a vote of 54 in favor and 0 opposed, this 19th day of June, 1975.

Chairman
Navajo Tribal Council

CAU-43-61

3-5-62

RESOLUTION OF THE
NAVAJO TRIBAL COUNCIL

Adopting Navajo Education Policy

WHEREAS:

1. Great progress has been made in improving educational opportunities for Navajo people in the past ten years.

2. However, many areas need improvement and it is appropriate that the Navajo Tribal Council consider over all policy objectives with the Bureau of Indian Affairs for the future development of education opportunities for Navajo people.

NOW THEREFORE BE IT RESOLVED THAT:

1. The attached Exhibit entitled "Navajo Education Policy Statement" is hereby adopted by the Navajo Tribal Council as the Education Policy of the Navajo Tribe.

2. The Navajo Tribal Council urgently requests the Congress of the United States and responsible officials of the Department of the Interior to use their best efforts to implement the aims and objectives of the Navajo Education Policy, through appropriation and administrative action.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Navajo Tribal Council at a duly called meeting at Window Rock, Arizona, at which a quorum was present and that same was passed by a vote of 58 in favor and 0 opposed, this 29th day of August, 1961.

Vice Chairman
Navajo Tribal Council

JOINT BUREAU OF INDIAN AFFAIRS-NAVAJO TRIBAL COUNCIL
Navajo Education Policy Statement

Under Congressional authorities and Departmental direction it shall be the policy of the Bureau of Indian Affairs and the Navajo Tribe to attack simultaneously the education problems of Navajos on all fronts and at all levels, from beginning grades through adult programs, by laying the problems before the public, the Congress, ~~and by~~ working in cooperation with the State, local and public school officials, and other Federal agencies in providing the type of education opportunities that best meet the needs of the Navajo people.

the State legislatures

The ultimate education objective is educational competency for all Navajo people so that they may participate in the local community, State, and national life equally with other citizens. Therefore, the Bureau of Indian Affairs and the Navajo Tribe shall plan educational programs in terms of specific needs of the Navajo people and seek funds from the Congress to carry out each program.

I. Policy objectives. It shall be the policy

1. To provide educational opportunities for Navajo children on the reservation from beginners through grade twelve in order that all children may be near their parents. This is the basis for developing an educational system on the Navajo Reservation in keeping with the patern of public education in the United States.

2. To develop, when there is mutual rediness, educational opportunities in public schools for Navajo children at all grade levels in order that Navajo youth may have the opportunity to partisipate in public school educational programs on an equal basis with other citizens.

3. To use present off-reservation education facilities for Navajo youth as long as the need exists.

4. To provide through State and other resources educational opportunities for mentally and physically handicapped Navajo children (blind, deaf, spastic, etc.)

5. To recognize Navajo high school graduates to utilize fully existing facilities and programs in pursuit of further education and/or training in keeping with their individual interests and capabilities.

6. To provide adult education instruction in close cooperation with local community groups.

II. Implementation of policy objectives

1. Navajo students will attend schools on the reservation.

(a) In public schools wherever they are already available. Additional public school opportunities will be developed on the reservation as public school officials and the Navajo people are mutually prepared.

(b) In Federal day schools wherever population will support a day operation. The value attached to home living with school attendance on a day basis remains a primary objective of tribal and Bureau education policy..

(c) Existing boarding schools will be expanded on the reservation at the nearest locations to the parents to care for the remainder who cannot be accommodated in day facilities. As roads are developed students who can be reached will attend on a day basis. When a boarding facility can serve all children within the area on a day basis the boarding facility will be converted to day operation.

2. Conditions under which Navajo students may attend Off-reservation schools.

(a) Navajo students who are up to grade may attend public schools wherever public schools have been made available for them within the States of their residence. The Bureau will assure dormitory care make suitable contract arrangements for instruction in the public schools.

(b) Navajo children 13 years of age or older who are retarded two or more grades may continue to attend off-reservation Federal schools to receive special vocational instruction as long as the need exists.

(c) Navajo students 13 years of age or older who cannot be accommodated in on reservation schools will continue to attend off-reservation schools.

3. Education beyond high school level.

(a) Post high school courses in Haskell and Chilocco will continue to be available to Navajos.

(b) Vocational training under Public Law 959 will be available to qualified Navajo applicants.

(c) Qualified Navajo students will be encouraged to make the fullest use of all scholarship assistance - tribal scholarships. Bureau and private scholarships - to further their education in colleges and universities, and technical and trade schools.

4. Adult education. Lack of early opportunities for education makes it imperative that many appropriate courses be provided for Navajo adults to insure their educational progress. The Bureau of Indian Affairs and the Navajo Tribe will work with all agencies providing adult instruction to plan and develop adult education programs in closest possible keeping with requests initiated by the local community.

5. Special education. In cooperation with responsible agencies the greatest care will be exercised to identify the handicapped Navajo students.

(a) For such handicapped students whose needs can be met in a modified school environment, arrangements will be made (in cooperation with responsible agencies to provide adequate instruction in existing schools.

(b) The extreme cases that cannot be provided for in a modified school situation and thus require institutional care shall be provided for in appropriate State and private institutions.

Summary

The Bureau of Indian Affairs and the Navajo Tribe agree to work in full cooperation in developing plans that will carry out all phases of the foregoing policy objectives.

Chairman, Navajo Tribal Council

Commissioner, Bureau of Indian Affairs

The Navajo Comprehensive Education Plan

The NCEP (9th draft) and the Alternative Plan A is a product of more than a year's efforts of developing pervious drafts, presenting them for review, and revising and modifying the documents following the several presentations to the Navajo Tribal Education Committee, Navajo Area Office of the Bureau of Indian Affairs, Navajo Area School Board Association, State Departments of Education of Utah, Arizona, and New Mexico, representatives of the community-controlled, mission, public, and BIA schools, and the Navajo Division Of Education. These presentations have resulted in the drafting of two plans, presently awaiting Navajo Tribal Council considerations and ratification, outlined in chapters and articles format. The plans speak to the establishment of a Navajo Board of Education who will be responsible forthe implementation of the Navajo Comprehensive Education Plan. They should be considered as a single unite produced as an outgrowth of a Navajo Tribal Council resolution CJN-40-75, which delegated the Navajo Tribal Education Committee to develop a comprehensive Navajo Education Policy Statement for consideration by the subsequent session of the Navajo Tribal Council. Therefore, it shall be the responsibility of the Tribal Council to choose one or the other for implementation and incorporation in the Navajo Tribal Code.

TITLE X

Education

Article

I. The Navajo Board of Education
II. Jurisdiction
III. Powers
IV. Membership; appointment of the Commissioner of Education
V. Provisions
VI. Duties
VII. Responsibilities; approval of Education Plan
VIII. Establishment of the Office of Navajo Education
IX. Navajo Education Resolutions
X. Severability

Article I

Sec. 1.0 Establishment of the Navajo Board of Education

There is established a Navajo Board of Education, hereafter called the Board, for the purpose of approving policy consistent with the Navajo Comprehensive Education Plan; subject to the Navajo Tribal Code, resolutions of the Navajo Tribal Council, federal laws, and such state laws and regulations made applicable by the Navajo Tribal Council, by Resolutions of the Navajo Tribal Council enacted after the date of approval of this resolution, or by final decrees of any federal or Tribal court.

Article II

Sec. 1.0 Jurisdiction

The Board shall have jurisdiction over the systems of education and personnel engaged in educational services affecting the Navajo Nation and surrounding Navajo "Indian Country", as defined in the Navajo Tribal Code, Title 7, § 134.

Article III

Sec. 1.0 Powers

Sec. 1.1: The Board shall have the power to negotiate with state educational agencies, the Bureau of Indian Affair's schools, mission and private schools; and other agencies and organizations directly or indirectly affecting Navajo education;

Sec. 1.2: to recommend and propose legislation regarding Navajo educational matters;

Sec. 1.3: control, manage and direct all educational institutions, except as otherwise provided by laws;

Sec. 1.4: promulgate, publish, and enforce regulations to exercise its authority granted pursuant to this Resolution;

Sec. 1.5: apply to the Navajo Tribal Court, or any court with competant jurisdiction, for an injunction, writ of mandamus or other appropriate relief to enforce the provisions of this Resolution.

Article IV

Sec. 1.0 Membership

Sec. 1.1: The Board shall have an elected membership with the following qualifications:

(a) Candidate must reside within the Agency jurisdiction;

(b) must have attained legal voting age;

(c) must have a degree and/or administrative experience in an educational field;

(d) shall not be a member of the Navajo Tribal Council; except as provided for the Chairman of the Education Committee;

(e) upon election, shall not be employed full-time, part-time, or be a consultant to the Office of Education;

(f) if member is elected to the Navajo Tribal Council, member will be terminated from the Board.

Sec. 2.0 Elections

The Navajo Board of Elections Supervisors shall within sixty days of the passage of this Resolution, conduct certified elections of one representative for each twenty thousand people (or major fraction thereof) residing in each agency.

Sec. 3.0 Length of Service

Sec. 3.1: The term of service shall be four years

Sec. 3.2: In order to maintain the continuity of the Board, the expiration of terms of Board members hall be staggered so that the term of one-half of the Board will expire every two years.

Sec. 3.3: At the initial meeting of the Board, the members shall determine among themselves by lot which members' term shall expire in two years and four years.

Sec. 3.4: The length of service for each elected member of the Board shall be limited to two consecutive terms.

Sec. 4.0 Other Members with Full Voting Powers

Sec. 4.1: The Chairman of the Education Committee of the Navajo Tribal Council shall serve as an ex-officio member of the Board.

Sec. 4.2: The Chairman of the Navajo Tribal Council shall recommend two or more persons, one of whom will be appointed by the elected Board.

Sec. 4.3: The Chairman of the Navajo Tribal Council shall appoint a currently enrolled student attending a school under the jurisdiction of the Board. The selection of the student will be subject to the following:

(a) recommendations received from a high school or institution of higher education.

(b) length of service on the Board shall be limited to one year

Sec. 5.0 The Commissioner of the Office of Navajo Education

Sec. 5.1: The members of the Board shall appoint the Commissioner of the Office of Navajo Education. The appointment of the commissioner will be subject to the following conditions:

(a) appointee must meet qualifications determined by the Board;

(b) must be an enrolled member of the Navajo Tribe;

(c) must have the concurrence of the Navajo Tribal Council;

Sec. 5.2: The commissioner shall be a non-voting member of the Board; will be the presiding officer at all Board meetings; and shall keep records of all meetings.

Sec. 5.3: The Board shall delegate and authorize such duties and responsibilities to the Commissioner, as necessary, to fulfill the goals and objectives of the education policy(ies) of the Navajo Nation.

Sec. 6.0 Board Officers

Sec. 6.1: The Commissioner shall serve as the presiding officer and President of the Board at all Board meetings.

Sec. 6.2: At the first regular meeting of the Board, the member shall elect a Vice-President, and Secretary from Board membership. Elections for these offices shall be held every two years, at the next regular meeting after the certified elections.

Sec. 6.3: In the absence of the President, the Vice-President, shall preside at Board meetings.

Sec. 6.4: Regular meetings of the Board shall be held every six weeks. The Board will call special meetings when necessary. A quorum will consist of a simple majority of Board members.

Article V

Sec. 1.0 General Provisions

Sec. 1.1: The Board shall adopt administrative rules and regulations for its internal operations, and will submit annual and special budget requests for review and appropriation by the Navajo Tribal Council.

Sec. 2.0 Removal from Office

Sec. 2.1: Upon conviction of a felony, any member shall cease to hold office.

Sec. 2.2: Members not attending regular and special Board meetings with adequate notice of such meetings, on three consecutive occasions, shall constitute neglect of duty, subject to removal by the Board.

Sec. 2.3: Elected members of the Board shall be subject to removal from the Board by a recall voted by their constituency, subject to procedures governed by the Navajo Board of Elections Supervisors.

Sec. 3.0 Indemnification of Board Members

Sec. 3.1: Any person made a party to any action, suit or proceedings by reason of the fact that he, his testator or intestate, is or was a member of the Board, shall be indemnified by the Navajo Tribe against the reasonable expenses, including attorney's fees, actually and necessarily incurred by him in connection with the defense of such action, suit or proceeding, or in connection with any appeal therein, except in relation to matters as to which it shall be adjudged in such action, suit or proceeding that such member is liable for negligence or misconduct in the performance of his duties

Article VI

Sec. 1.0 Duties

Sec. 1.1: The Board shall properly and uniformly enforce the provisions of the Navajo Education Policy;

Sec. 1.2: determine policy for the Office of Navajo Education;

Sec. 1.3: appoint the Commissioner of the Office of Navajo Education, with the consent of the Navajo Tribal Council;

Sec. 1.4: approve courses for instruction, requirements for graduation and standards for all schools subject to the jurisdiction of the Board;

Sec. 1.5: require prior approval for any educational program which is to be conducted, sponsored, carried on, or caused to be carried on by any other agency or organization;

Sec. 1.6: authorize educational programs to be conducted in schools, and promulgate and publish regulations governing all such educational programs;

Sec. 1.7: assess and evaluate all schools within the jurisdiction of the Board for Navajo accreditation;

Sec. 1.8: determine the qualifications for and issue a teaching cerficate to any person teaching, assisting teachers, supervising an instructional program, counseling, providing special instructional services, or administering in schools subject to the jurisdiction of the Board;

Sec. 1.9: determine the conditions of tenure for any person teaching, assisting teachers, supervising an instructional program, counseling, providing special instructional services, or administering in schools subject to the jurisdiction of the Board;

Sec. 1.10: after a hearing, suspend or revoke a certificate issued to any person teaching, assisting teachers, supervising an instructional program, counseling, providing special instructional services, or administering in schools subject to the jurisdiction of the Board, upon conviction of a felony or misdemeanors involving moral terpitude or gross incompentance or neglect of duty;

Sec. 1.11: set guidelines to insure for competant administration of all schools subject to the jurisdiction of the Board;

Sec. 1.12: compile periodic reports on prescribed forms from all schools subject to the jurisdiction of the Board, in accordance with the standards of certification and accreditation;

Sec. 1.13: cooperate with accrediting agencies for schools within the jurisdiction of the Board;

Sec. 1.14: plan and apply through the Navajo Tribal Council, for grants of money from the federal government and any other agency for educational purposes and expend the money for the purposes specified in the grant;

Sec. 1.15: review and recommend for approval by the Education Committee of the Navajo Tribal Council, by-laws for governing boards of colleges, vocational centers, academies and other educational institutions, agencies and organizations, which are accountable to the Navajo Tribal Council;

Sec. 1.16: review decisions and make recommendations to the governing board or officials of any organization or association providing education in schools subject to the jurisdiction of the Board;

Sec. 1.17: assess and evaluate for accreditation purposes at least one-third of all schools subject to the jurisdiction of the Board every four years, through visits of the Office of Navajo Education personnel to investigate the adequacy of pupil achievement in required subject matter, adequacy of pupil activities, functional feasibility of school organization, adequacy of staff preparation and other matters bearing upon the education of students

Sec. 1.18: provide for management and other necessary personnel to educational institutions serving Navajo people, which are in need of assistance, until such time that the operation has met the provisions of the policy, its standards and regulations;

Sec. 1.19: the Board shall provide for the right to appeal actions taken by local school boards, subject to the jurisdiction of the Board, in accordance with procedures contained in Appendix   of the Policy;

Sec. 1.20: upon request by a party to the dispute, the Board may arbitrate disputes relating to educational matters within its jurisdiction, with the power to subpoena witnesses, information and testimony; and may enlist the aid of impartial goups outside the sphere of interest or involvement;

Sec. 1.21: appoint special committees in emergency situations, the special committees shall be delegated the authority to take necessary measures on such emergency issues or incidents affecting the education of Navajo people, the special committee shall report its findings and recommendations to the Board for action;

Sec. 1.22: set minimum guidelines for local school board operations, including, but not limited to granting local school board decision-making powers in selection of staff, compensation of school board members, facilities use and dispute settlement;

Sec. 1.23: cooperate with the states of Arizona, New Mexico, and Utah, in presenting the needs of Navajo education in terms of population distribution, both geographic and age, school enrollment, income, and allocation of state school funds;

Sec. 1.24: maintain affiliation with planning council representative of communities, agencies and organizations involved in Navajo Education. The Board shall seek advice from the planning councils in policy development and future planning;

Sec. 1.25: require a factual report from each school by August 1, of each year which indicates what effect the current funding formula and other financial aids have had on educational program operations and student progress, and what changes, if any, are needed;

Sec. 1.26: the Board shall evaluate reports, consolidate findings and present a Navajo educational report to the legislative session of the Navajo

Tribal Council on an annual basis;

Sec. 1.27: In general, to do all and everything, either within or without the Navajo Nation, necessary to convenient, to the accomplishment of any of the purposes herein stated; and in general to do any and all things and exercise any and all powers, rights and privileges which a Board of Education may now or hereafter be organized to do or to exercise.

Article VII

Sec. 1.0 Responsibilities

The Board will immediately direct the completion of the Navajo Comprehensive Education Plan regarding educational planning for the Navajo Nation. The Board, with the Commissioner and the Office of Navajo Education will develop the following education plans:

Sec. 1.1: Early Childhood Education Plan, establish pre-school programs, particularly those programs having considerable parental involvement, haveing a curricular program approved by the Board, having a permanent funding source, and are provided technical assistance in areas of program development and operations;

Sec. 1.2: Elementary and Secondary Education Plan, continue operation of kindergarten through twelfth grade educational systems for youth; also, improve and expand the educational opportunities provided for Navajo students closer to their homes;

Sec. 1.3: Post-Secondary Education Plan, continue operation of higher education and post-secondary systems of education for young adults and adults, utilizing institutions both on and off the reservation.

Sec. 1.4: Adult Education Plan, continue operation of adult education systems; also, improve and expand the educational opportunities provided by these systems;

Sec. 1.5: Vocational Education Plan, continue operation, improvement and expansion of vocational education programs for young adults and adults, utilizing institutions both on and off the reservation;

Sec. 1.6: Community Schools Plan, continue operation, improvement and expansion of local community schools, including community-controlled schools for Navajo children, youth, and adults;

Sec. 1.7: Special Education Plan, continue operation, improvement and expansion of special education for Navajo children, youth, and adults; special education programs will be given priority for establishment in local communities;

Sec. 1.8: Bilingual-Bicultural Plan, continue operation, improvement and expansion of bilingual-bicultural education programs at all levels of education for children, youth, and adults in institutions serving Navajos on and off the reservation;

Sec. 1.9: School Health Plan, improve health-related programs for the benefit of Navajo children, youth, and adults;

Sec. 1.10: Guidance and Counseling Plan, implement programs which will develop a sufficient number of guidance and counseling educators responsive to the needs of Navajo children, youth, and adults;

Sec. 1.11: Youth Development Plan, continue operation and considerable expansion of year around youth development programs that are responsive to the needs of Navajo children and youth, including recreation programs and summer employment;

Sec. 1.12: Post Graduate and Professional Development Plan, plan and promote the development of professional programs for Navajo men and women in all recognized disciplines of higher education;

Sec. 1.13: Vocational Rehabilitation Plan, secure and coordinate funding, and in cooperation with local, state, and federal agencies, organize and implement a comprehensive program that will provide training, counseling services, and employment for physically and mentally handicapped Navajo children, youth, and adults;

Sec. 1.14: Alternatives in Education Plan, support development of alternative forms of education for Navajos, and provide technical assistance to persons and organizations investigating or establishing alternative programs and schools;

Sec. 1.15: Educational Standards Plan, cooperate with accrediting agencies to extablish educational standards that will assure general educational quality and equivalence;

Sec. 1.16: Research and Development Center Plan, operate a Navajo Educational Research and Development Center and Library, to provide a centralized resource center for research and development of educational programs; also, the Board shall publish an educational journal for education review and critique;

Sec. 1.17: School Administration Technical Services Plan, operate and expand the school administration technical services plan through the Office of Navajo Education;

Sec. 1.18: Educational Facilities Plan, develop an educational facilities plan which assures the best educational facilities to meet the needs of school communities, including local and regionally based institutions;

Sec. 1.19: Education Professions Development Plan, operate, improve, and expand the Navajo Education Professions Development Program to meet the needs of education for Navajo people on and off the reservation;

Sec. 1.20: General Services Plan, services, such as, educational planning, staff training, evaluation and other new and recurring technical needs of schools and colleges, will be provided, or assistance, if necessary, for development of technical services provided by other organizations.

Sec. 2.0 Approval of Educational Plans

Sec. 2.1: The Office of Navajo Education shall prepare necessary documents and other pertinent materials relating to the plan for the Board for review and modification;

Sec. 2.2: The Board will submit the plan to the Education Committee of the Navajo Tribal Council for review and modification;

Sec. 2.3: The Board shall then approve the plan for publication to the general public;

Sec. 2.4: The Board shall then make public notice weekly in newspapers and other media for three consecutive weeks, that the plan is available for inspection.

(a) Notices must name locations throughout the Navajo Reservation and other sites where the plan is available;

(b) Notices shall detail the appropriate procedures for submission of recommendations and modifications to the plan.

Sec. 2.5: Upon determination of the Board or public request, public hearings may be held regarding the education plan.

(a) Notices of public hearings regarding education plans shall include the time, date, and location of each hearing.

(b) Notices shall be made through radio, television and newspapers, weekly, for a period of three consecutive weeks prior to the hearing date set by the Board.

(c) Notice shall include procedures governing participation in the hearings and appropriate guidelines for submission of recomendations and modifications.

Sec. 2.6: The Board shall allow at least thirty days after the completion of the hearings for written public comments, and after such time, shall review and consider all input and make any necessary modifications and reasons therefore, to the plan.

Sec. 2.7: The Education Committee of the Navajo Tribal Council shall approve and incorporate the plan as part of the Navajo Comprehensive Education Plan.

Article VIII

Sec. 1.0 Establishment of the Office of Navajo Education

The Board and the Commissioner shall set forth the operational policies and procedures of the Office of Navajo Education. The Navajo Division Of Education shall become the Office of Navajo Education, all functions of the officers and the office shall be under the direction of the Commissioner of Education. The administrative functions of the Office shall be implementation of the Policy, rules and regulations of the Navajo Tribal Council and the Board.

Sec. 2.0 Duties

The Office of Navajo Education, directed by the Board, through the Commissioner, shall perform all duties as authorized, including but not limited to the following:

Sec. 2.1: assist all schools and schools officials coming under the jurisdiction of the Board;

Sec. 2.2: advise governing boards and officials of educational institutions operating within the jurisdiction of the Board concerning the Policy;

Sec. 2.3: make available, upon request and minimal fee, the policies plans, rules, and regulations promulgated by the Board to local school boards and any interested persons;

Sec. 2.4: administer and coordinate funds allocated for educational programs;

Sec. 2.5: render technical assistance to qualified community organizations, e.g., Chapters, educational groups and associations wishing to establish and coordinate educational programs or assume control of programs through contracting with outside agencies. Assistance shall include, but is not limited to, proposal writing, budget analysis, evaluation of programs, developing curriculum materials, training personnel, and supplemental program information;

Sec. 2.6: annually, prepare and publish a report on the overall achievements of the objectives and goals of the policy to the Board;

Sec. 2.7: keep accurate records of all monies, reports and evaluation received by the Office of Navajo Education and the Board;

Sec. 2.8: confer with local school boards and certified school personnel and educational agencies concerning matters of Navajo education;

Sec. 2.9: actively participate in all essential relationships with local, state, regional and federal agencies directly and indirectly affecting Navajo education.

Sec. 3.0 Personnel

The Board and the Commissioner are authorized and directed to provide a system for the appointment and tenure of personnel in the Office of Navajo Education. The system shall be formulated upon the basis of merit and efficiency, consistent with Navajo Tribal Personnel Policies and Procedures.

Sec. 4.0 Navajo Preference

The hiring, training and promotion of personnel in compliance with Navajo preference shall be strictly enforced. Provided, however, that if any grant or contract requires compliance with Indian preference provisions of 25 U.S.C., or other federal legislation, than the Board shall comply with such legislation.

Sec. 5.0 Staff Development

The Board and the Commissioner will conduct staff development programs for the Office of Navajo Education personnel as outlined in Appendix of this policy.

Article IX

Sec. 1.0 Navajo Education Resolutions

All resolutions of the Navajo Tribal Council not consistent with this Plan are repealed only upon the action of the Navajo Tribal Council with regard to each resolution so affected.

Article X

Sec. 1.0 Severability

If any section of application of any section of the Navajo Comprehensive Education Policy is held invalid, the remainder, or its application to other situations or persons, shall not be affected.

Mr. BLOUIN. Our second panel is made up of the following, and again, as I call your names, please, come up to the witness table.

Delfin Lovato, president of the All Indian Pueblo Council, New Mexico. If I pronounce your names wrong, if you all would let me know.

Susan LaFromboise, chairperson, Reservation Education Board, representing chairman Gerald Flute, Sisseton-Wahpeton Sioux Tribal Council, South Dakota; and Mr. Joseph McDonald, tribal councilman, Confederated Salish and Kootenai Tribes, representing Chairman Thomas Swaney, Flathead Tribal Council of Montana.

The subcommittee has copies of all of your statements and they will all be admitted in the record as I have mentioned them. Why not just go in that order, starting with Del Lovato.

[Prepared statement of Del Lovato follows:]

STATEMENT OF
DEL LOVATO, CHAIRMAN
ALL INDIAN PUEBLO COUNCIL
BEFORE THE
COMMITTEE ON EDUCATION & LABOR
ON
H.R. 9810, INDIAN BASIC EDUCATION ACT

Mr. Chairman and members of the Committee, my name is Del Lovato, Chairman of the All Indian Pueblo Council, representing the 19 New Mexico Pueblo Reservations. Accompanying me today are the Governors of four of these Pueblos: Governor Frank Lujan of Taos Pueblo, Governor Edison Laselute of Zuni Pueblo, Governor Juan Valencia of San Felipe Pueblo, and Lt. Governor William Estevan of Acoma Pueblo.

The All Indian Pueblo Council supports, in general, the overall intent and purpose of H.R. 9810. However, its scope and objectives present some foreseeable problems which require study and evaluation prior to enactment of H.R. 9810.

While there are many positive and valuable aspects of this proposed legislation, the complexities of this proposal must be, and should be, clearly understood by everyone concerned. We therefore ask this Committee and proponents of this measure to make sure that Tribal governments, State school districts (LEAs), and Indian educators understand the present effect and future implications of H.R. 9810 upon Indian education. Despite past hearings on this bill and related bills, it is our opinion that Indian people do not fully understand this proposed legislation. As such, we request and recommend field hearings which will allow more tribal leaders, school administrators, parents and other interested persons an opportunity to voice their attitudes regarding this proposed legislation.

For the sake of our presentation before this Committee, we have limited our remarks to what we consider the two major objectives and/or parts of H.R. 9810: the provision dealing with a plan for basic education of Indian children in the public schools and those provisions addressing the reorganization of the BIA's Office of Education.

First, we strongly support the requirement for the involvement and participation of the Indian community and the Indian leadership in the planning, programming, and budgeting of P.L. 874 (Impact Aid Assistance to local school districts) funds at the school district level. However, the bill calls for much cooperation between school districts and tribal groups. This atmosphere is practically non-existent in many districts where Indian children attend school. Also, the funding formula if based on the average per pupil expenditure, at a given school district, would mean less funds for the Indian student and the school district. For example, the average per pupil expenditure in New Mexico is $143.50. The impact aid for the student which the school district gets under the present formula is much more. We have serious questions as to how state governments will allocate or allow school districts to allocate their funds.

Secondly, this bill appears to relieve state and local educational agencies of any responsibility for educating Indian children in the public schools. We cannot support the proposition that the federal government alone must bear 100% of the Indian per pupil cost within a state school district, considering the growing tax contribution that the Indian community makes to state governments. States should and must be required to contribute to the basic educational needs of Indian students.

The provisions which allow Indian tribes to "opt-out" of a public school system if they cannot reach an agreement with the school district on expenditure or the basic education plan are unrealistic and unworkable. The main reason 85% of the Indian students in New Mexico are in the public school system is the fact that there are no other educational facilities to serve the Indian community. If a tribe were to pull out of a school district, where would the students go? The federal responsibility to provide adequate educational facilities is a gross failure.

We also support the development of comprehensive educational standards for Indian education and the general provisions of H.R. 9810 which provide for more local participation and control of BIA schools. We cannot support the proposal to place BIA education under HEW control and direction, for the primary reason that HEW has not proven itself particularly well informed about Indian education or very sympathetic to demands by Indians for a greater voice. Such a move may further weaken an already weak Bureau of Indian Affairs.

In conclusion, we ask this Committee to conduct field hearings on HR 9810 in order to give the Indian community and public school administration more opportunity to study and understand the full implications of H.R. 9810.

STATEMENT OF DELFIN LOVATO, PRESIDENT, ALL INDIAN PUEBLO COUNCIL, ACCOMPANIED BY GOV. EDISON LASELUTE; AND LT. GOV. JOE ANSARA

Mr. LOVATO. Mr. Chairman, members of the committee, I have a written statement I would like to introduce for the record on behalf of the 19 pueblos. I would also like to introduce the gentlemen that I have with me, representing several of our Pueblo governments.

To my left is Lieutenant Governor Estevan of Acoma Pueblo; to my right is the Governor of Zuni Pueblo, Mr. Edison Laselute; I also have the governor of San Felipe, Governor Juan Valencia.

Mr. Chairman, I would like to first start off by stating that the Pueblo community in general supports the overall intent and purpose, and the objectives of H.R. 9810. However, I do not think we totally agree that H.R. 9810 is the way in which some of these objectives can best be met.

First of all, the portions dealing with the public school and the education of Indian children in the public school system, I think, are good. However, I think here again, the bill as it now stands, does not address, I think, some political realities. First of all, 80 to 85 percent of the Pueblo children are in the State public schools in New Mexico.

We feel that the need for local control, local participation in the formation and development of a local, or a basic education plan for the Indian children in the public school system is good. However, I think those provisions, and the provisions of the bill in general are based upon the fact that there would be cooperation between the districts and the Indian tribes.

I am sorry to say that this cooperation does not exist between many districts and the Pueblo community.

Second, I think the cooperative effort, if it fails, the bill provides the tribal governments with an opportunity to pull out. Pull out and into what? Mr. Chairman, I am sure that this committee is well aware of the gross inequities which exist within the present education systems, as they are presently run by the Bureau of Indian Affairs. There are not sufficient facilities. What schools would these children be placed in, should this type of a situation arise?

We feel that particular portion of the bill is unrealistic and unworkable for our area.

We cannot, by the same token, agree to the proposition that the education of Indian children is strictly a Federal responsibility. And if we understand the provisions of the bill correctly, it provides for basically a 100-percent Federal funding of the basic educational needs of the Indian student. We feel, contrary to public belief, that the Indian community in our State pays their fair share of State taxes, and that particular contribution is steadily increasing with more and more development of natural resources and other resources on the various reservations in our State.

We feel that the State school system, the State government in general, should be made a partner; should be required to participate in providing for the basic educational needs of all of the citizens and children of our State, be they Indian or non-Indian.

We have some questions in terms, again, of the funding mechanism. And here again, as I understood the chairman in the earlier presentation, this has not been set, and perhaps that funding mechanism will change. But we hope that whatever change, there should be provisions by which the States should provide for certain basic essentials in the basic education plan for all the students.

Mr. BLOUIN. Excuse me just for a second.

Mr. LOVATO. Yes, sir.

Mr. BLOUIN. If I am understanding you, you think that the State should share that responsibility.

Mr. LOVATO. Absolutely.

Mr. BLOUIN. And the problem with the formula is that the State takes all of their equalization credit back, in New Mexico they end up taking it all back, as we looked at the formula.

Mr. LOVATO. That is right.

Mr. BLOUIN. Could you solve that by mandating, as we said earlier, nothing be subtracted by the State until that State aid averages, or equals the average per pupil expenditure for the entire State? First they have to credit that much, and anything above that they could subtract.

Mr. LOVATO. Yes, Mr. Chairman, I think to some extent that problem would be resolved by doing that. However, when you have a district, here again the per capita per student expenditure varies from district to district and from State to State.

Mr. BLOUIN. In some districts it is very, very low.

Mr. LOVATO. Absolutely. So, I think that should be considered.

Mr. BLOUIN. Would that best be solved through the other approach that I touched on earlier, that there would be almost an entitlement that they could not touch, that nobody would get less than.

Mr. LOVATO. Yes, I think that method would probably be best for our area. And here again, I think you have to consider all of these things in light of what we presently have. Are we going to be losing money under the present system. I think that is one area which needs further study.

Mr. BLOUIN. Well, as we look at the list of New Mexico school districts, I think the Pueblos are spread over just about all of these schools in the State.

Mr. LOVATO. That is right.

Mr. BLOUIN. Every district comes out all right; some come out terrific; and some come out barely with anything.

Mr. LOVATO. That is right, Mr. Chairman.

Mr. BLOUIN. Thank you.

Mr. LOVATO. I think in terms of the BIA reorganization portions of the bill, here again I think, generally speaking, we support the need for some reorganization of the BIA educational programs. But again, Mr. Chairman, I do not think placing BIA education programs under the direction, or supervision of HEW is the answer; and that is how I understand the provisions of the bill, putting it under the HEW, under the director of education.

Mr. BLOUIN. If we could show you that it does not do that, would you support it?

Mr. LOVATO. Well, I think that is something we need to look at.

Mr. **Blouin**. That is negotiable.

Mr. **Lovato**. Right.

Mr. **Blouin**. That is not our understanding. If it does that, I will rewrite it myself.

Mr. **Lovato**. The reorganization itself, I think, has some very good aspects within it. But then, by the same token, centralizing all of the Bureau functions within the central office here in Washington, I think, is a matter which has already been tried, and it had some very inherent weaknesses within it. And keeping in line with the concept of local control and local participation, I am wondering at this point if that could not be looked at a lot deeper. I think the changes in the personnel system to provide for the type of local control and participation that are needed, are excellent. The bill calls for a review and study, and more surveys of the boarding school situation. Here again, Mr. Chairman, I think we have several studies, several documents which have already been done. It calls for a study of Bureau construction, the safety of Bureau facilities. Again, Mr. Chairman, we have countless documents already expressing, or pointing out the gross needs of some of our facilities.

The 19 pueblos only recently contracted the operation and administration of a secondary boarding school in Albuquerque. We consider this facility not a boarding school in the sense that it is located in some far off place, but that facility, we consider, is right in the heart of the Pueblo community. And certainly, while we are making a gallant effort, you might say, to run that facility for the first time under Indian control, we are running into serious difficulties in terms of the support, basic support we are getting for that facility through the BIA. Though Public Law 93-638 in our opinion, provides an excellent opportunity, but it is not providing adequate funding to give us a fair chance at success. I think these are matters which, again, need further consideration and study.

I think in general, again, Mr. Chairman, that despite some effort that has been made by this committee in the past, to have informal hearings out in the field, I cannot really say that the Indian community in general really understands all of the implications of this particular legislation. I think the impact aid, the amendment of 874 is an area which I am hopeful that the Indian community, tribal governments especially, must be very careful; they must fully understand all of its implications. And equally so those provisions dealing with reorganization of the Bureau education program. We all agree there is a need for the concepts and the objectives that are being looked at, and trying to be resolved by H.R. 9810.

However, I think the methodology, the implementation of that is critical. I think it is something that I am not sure that we, as tribal representatives, really truly understand at this point. So, we are making a recommendation to this committee that before we rush through with anything, or before we enact H.R. 9810 in its present form or with whatever changes, that at least we make every effort to make sure that the Indian community, the parents, the public school administrators, fully understand what we are doing because I think it is a big step, especially in terms of the public school system and the role which the Indian community will play within that system in the coming years, with something like H.R. 9810.

I am sorry to say, but I think too often we cannot legislate such well intentioned ideas as cooperation, for instance. I think the success or failure of that particular portion will depend upon the amount of cooperation you have between the public school system, the public school board, the parent committees, the tribal governments, and of course the parents themselves.

That is all I have to say, Mr. Chairman. I will be happy to answer any questions.

Mr. BLOUIN. Thank you very much. Susan? Go ahead.

[The prepared testimony of Susan LaFromboise and additional material follow:]

SISSETON-WAHPETON SIOUX TRIBE
OF THE LAKE TRAVERSE RESERVATION
P. O. BOX 247
SISSETON, SOUTH DAKOTA 57262
TELE: (605) 698-3911

Testimony - H.R. 9810

Washington D.C.

Feb. 7, 1978

At this time the wording of H.R. 9810 is such that the Sisseton-Wahpeton Sioux Tribe cannot support the bill in its entirety unless changes are made.

We are concerned that there are:

1. No Indian blood quantum requirements.
2. No provisions for students returning to public school if they move from an area after a tribe has constructed a school.
3. No provisions to buy land for construction of schools.
4. No provisions for special education for mentally or physically handicapped, gifted, or [redacted] students.
5. No definition of "Tribes participation" regarding the development of an educational plan.

We recognize that the intent of the bill is for the betterment of Indian education however, these issues must be addressed in order that we may have improvements in Indian education.

We are proposing that an Indian blood quantum requirement of eligibility be written into the bill to ensure that it will be Indian people benefitting.

Secondly, in the event that a Tribe elects to withdraw their children from a public school and construct their own school there must be provisions allowing students moving from the area to return to public school before five or ten years.

The Sisseton-Wahpeton Sioux Tribe is in a unique situation concerning school construction. Through special appropriations two schools were built for the Tribe. (The high school in Sisseton and the elementary in Peever) Although, these buildings were built for the Tribe, the Sisseton Public School District is operating both. These buildings are however, built on Public School land. In the event the Tribe chooses to operate their own school and asks for the return of both buildings the School District may decide not to allow the Tribe to use the land on which the buildings are situated. Because of this situation we are proposing that provisions be made allowing for the condemnation and purchase of lands for Tribally operated schools.

There should also be provisions allowing for special education of physically or mentally handicapped, gifted, and [redacted] students. These types of students cannot be educated at the same level as are average students.

There must also be a definition of "Tribes participation" regarding the development of educational plans. To what degree will the Tribes be allowed to participate?

Although there are a number of issues that must be addressed, before we can support the bill in its entirety, there are also certain points of which we are in support. We feel that parts of the bill will give Indian tribes more input and control over the education of their children. There hearings come at a time when, again, the tribe is battling with the school board over their failure to provide effective remedial reading programs for our children.

The Superintendent of the Sisseton Public School District is involved in a legal issue with the tribe [redacted] Although this matter has nothing whatsoever to do with education, it is my understanding that he has indicated to tribal members that since he was fighting the tribe on one level he would fight them on every level. The tribe has recently opened a Juvenile Detention Center which serves seven (7) school districts within the reservation boundaries. The superintendent has ordered that children from a school district other than Sisseton, where the Detention center is located, will not be allowed to go to school in Sisseton. At this time we have two boys not attending school while we are waiting for the State to clarify the law.

This should give you an indication as to the type of people we must deal with. This "get even" attitude is actually the element controlling our children's education. At this time I will turn the floor over th Nancy Smith, the JOM coordinator, for the Sisseton Indian Education Committee.

SISSETON INDIAN EDUCATION COMM
610 - 2nd Avenue East
SISSETON, SOUTH DAKOTA 57262
(605) 698-7604

The following testimony concerns events which have occurred in the past two years. It serves to illustrate one LIEB and its relationship with its particular LEA School Board. We would hope that it is an indication of a crucial need: Indian controlled education.

The Sisseton Indian Education Committee, the LIEB for the Sisseton School District, has annually had to fight to get their JOM supplemental or special programs into the Sisseton Public Schools-whether these programs be culturally related or not. Their major program, the Bilingual-Bicultural Program, was implemented only after long and hard negotiations between the SIEC* and the School Board. This program is entirely subsidized through JOM supplemental monies, yet the Sisseton School Board resisted its implementation for years. They used the standard arguments: there are no teachers certified to teach the Dakota language; there is no class room space for new programs; will the kids really be interested?, etc. Due to the earnest deliberation and dedication of the SIEC members, the School Board finally relented to implement the program.

Bilingual-Bicultural education is not a new concept. It has been with us for the past 10 years or more. School districts with a modicum amount of minority and second-language students across the country have been implementing the program. It is a program which necessitates the total involvement of parents, school administration, and the community. It is the type of enriching program which is not only beneficial to the students at whom it is addressed, but to all members of the school district.

The Chairman of the Sisseton School Board stated recently that the Sisseton Public Schools was a leader in state education,yet he continues to fight any type of Bicultural education. The SIEC is

r Indian Education Committee, henceforth will be referred taking the stand that they should no longer have to fight for the Bilingual-Bicultural program. It has proven to be a feasible, valuable part of the Sisseton school curriculum, and it should be permanently incorporated as such.

For Fiscal year 1976-77, the SIEC and the School Board signed a contract for JOM basic support . The contract included the following list of negotiated conditions:

I. A Grievance Committee was set up to hear and investigate complaints by Indian students and parents.
II. The SIEC was granted access to pre and post standardized test results for Indian students. State and national averages were also to be made available.
III. The School was to sponsor 2 days of In-service training on American Indian History and Culture.
IV. The SIEC would appoint a committee to review textbooks to determine whether an unbiased view of American Indian History was being presented.
V. The School would provide a Lyceum program on American Indian Culture and History twice a year in each school.
VI. The School District would make the 2 BIA built schools available to SIEC activities.
VII. A budget allocation apportioned (in dollars) in the following manner was agreed upon:
    100------Administration
    200------Construction
    500------Pupil Transportation
    600------Operational Plan
VIII. Resolution of questions or problems would be settled by a quorum of both boards present.
IX, The terms of the contract would extend from Oct.1,76-Sept. 30,77.

Items I,III,IV, were not adhered to by the School Board. As a result, the SIEC has again determined that a contract will be necessary for the basic support monies for 1977-78. The SIEC will, again, request that NARF* attorney John Wabaunsee prepare the contract. Why does the SIEC have to secure a lawyer to negotiate and contract for such basic conditions?

In June of 1977, the Sisseton School Superintendent and the Sisseton School Administration verbally agreed to adop a Reading Development Program utilizing the Orton-Gillingham method. The

Orton-Gillingham remedial reading method is primarily concerned with reading-disabled children who have problems with vowel and consonant confusion, letter or syllable omission, letter and syllable sequencing problems, and substitution of one word for another. The contention of the Orton-Gillingham experts is that many more children than we realize are dyslexic, but go undetected year after year. They are termed "slow learners" or even mentally retarded. The Orton-Gillingham approach is a comprehensive program geared to remediating the child with reading disabilities.

A comprehensive program using the Orton-Gillingham was presented to Sisseton school teachers, the school administration, and the Superintendent of the school district. The teachers and administration expressed real enthusiasm-here was a program they felt would help solve the reading problem. At a special meeting in June of 77, with representatives from the SIEC, the Reservation Education Board, and the school administration and Superintendent, a formal proposal was presented for the Reading Development Program using the Orton-Gillingham method. The Superintendent gave the go-ahead to investigate the program further and implement it come September.

The School did not follow through on any of the commitments and, consequently, when September rolled around, they had to scramble to get a program together. They did not incorporate the Orton-Gillingham method, but instead, hired an inexperienced reading teacher. She hadn't the slightest idea what the Orton-Gillingham was,and she did not know how to put together a reading program of her own. She went to the local drugstore and bought some comic books and word games as supplies for the course.

Members of the JOM board visited her classroom in mid-October and were appalled at the lack of any remedial program. The High School principal volunteered the reading teacher to learn the Orton-Gillingham method. He called back the very next day to let the SIEC know that he had "overstepped" his authority in doing so, and the School Board Chairman told him to continue on in their "program". The School Board felt that their program was taking care of the problem and that no changes needed to be made, especially to the Orton-Gillingham.

Since that visit in October, the SIEC has been attempting to get the Orton-Gillingham implemented as the remedial program for the Reading Development Program. The School Board has resisted any attempts at negotiations. They have strategically avoided meetings and real attempts at negotiations for the past 3 months. In mid-December, the SIEC, because of this very lack of co-operations by the School Board, decided to recommend withdrawal of funds for the program. A resolution stating the above was presented to the Sisseton Wahpeton Sioux Tribal Council and accepted unanimously. The SIEC's contention was that the School Board blatantly ignored the SIEC's intent that the Orton-Gillingham method be used in the Reading Development Program.

After another attempt by the SIEC to get together with the School Board to re-negotiate the contract, the SIEC requested the legal counsel of NARF. A meeting was set up for January 13th with the SIEC,NARF, and members of the School Board, and the Superintendent. The Superintendent requested that the NARF lawyers prepare a new contract including the Orton-Gillingham method. It was agreed that all parties would again meet the week of January 30th. However, none of the parties were able to meet at that time, and negotiations are still in the process. In the meantime, the SIEC has asked NARF to prepare a contract to use a comprehensive Orton-Gillingham program for 1978-79 .

Before the beginning of the school year 1977-78, the SIEC also drafted a proposal and a contract for a Dropout Prevention Program. The program provided for 4 instructional aides (tutors) to tutor in math, English, science, and Social Studies. It was to be on the High School level servicing 70-75 students. When it was presented to the Superintendent, he dismissed it as a duplication of services that he " hoped that the School was already providing". The SIEC Project Director investigated the School's existing "dropout prevention program" only to find that they are providing no individual tutoring or counseling to Indian students. Individual tutoring is sorely needed because of the extremely low number of Indian students graduating every year. The Dropout Prevention Program would attempt to keep students in school by helping them to meet their required work load and,at the same time, giving them a sense of accomplishment and confidence in themselves. Special emphasis was to be put on assisting the senior students in completing their graduation requirements.

Because the Superintendent and the School Board refuse to consider its implementation, the SIEC is including it in the Basic Support Contract for 77-78. Other significant programs which the SIEC would like to see included in the contract are a Summer Tutoring Program and a Summer Bilingual Teacher Training and accreditation program. The SIEC is preparing for a major battle over the Basic Support Contract for 1977-78.

TheSIEC has made all the initial steps toward establishing a working relationship with the Sisseton School District. Time and again, the district has completely torn down any bridge built between the two boards. After seven to eight years of trying to work at building an understanding between the 2 boards, the SIEC has made no headway. The School Board still balks at the implementation of any SIEC sponsored or recommended programs. The School Board still insists upon writing the contracts, allocating the dollars, and developing their own programs with our dollars.

The SIEC feels that the time for conciliation is at an end. They no longer want to give up 75% to get 25% of their original programs. The SIEC no longer wants to negotiate for dead-end programs. They no longer want to have to fight for programs that will only benefit their children academically, culturally, and emotionally.

The SIEC feels that after 8 years of attempting to work with the Sisseton School Board, there should have developed a mutual respect and understanding. There hasn't. They feel that the time has come for Indian people to take the responsibility of education for their children into their own hands. Indian children have the right to benefit academically from every dollar appropriated for them.

At a meeting of January 31, 1978, the SIEC met to discuss possible material for testimony. The following are recommendations which the SIEC expressly wished to have included-recommendations which might allay some of the problems which they have encountered in working with LEA's.

1. PL-9810 should include a LIEB with similar powers and duties to the JOM LIEB's.
2. There's a tremendous lack of communication between the boards (SIEC and the School Board). the LIEB should have some kind of insurance that their programs or recommendations will be implemented without any hassles.
3. Because it is almost impossible to get Indian parents on a School Board in a community like Sisseton, PL-9810 should include a formula for seating Indian parents on the School Board. Perhaps, there should be a percentage based on the number of Indian students in the district or a regular election could be held just for Indian parents.
4. Pl-9810 should include funds for the purchase of school property.
5. In the situation where a public school has a use permit for a BIA built school, the BIA should turn title over to the Tribe for whom the funds were originally appropriated.
6. Monies allocated for Indian children should be used exclusively for Indian children. None should be used for non-Indian children at all. This should be made patently clear in the 9010 rules and regulations.
7. No matter how many dollars aredesignated to Indian programs, the white taxpayers in the School District have the attitude that the money is theirs, and Indian parents should have no voice in where the money should be spent. The SIEC recommends that they (local taxpayers) receive a clarifications of the intent of dollars appropriated expressly for Indian children.

STATEMENT OF SUSAN LaFROMBOISE, CHAIRPERSON, RESERVATION EDUCATION BOARD, SISSETON-WAHPETON SIOUX TRIBAL COUNCIL, SOUTH DAKOTA, ACCOMPANIED BY NANCY J. SMITH, PROJECT DIRECTOR, J.O.M.

Ms. **LaFromboise**. I would like to introduce Nancy Smith, she is the coordinator for the Indian Education Committee, and she has something to say later.

Mr. **Blouin**. Susan, please speak up a little.

Ms. **LaFromboise**. At this time the wording of H.R. 9810 is such that the Sisseton-Wahpeton Sioux Tribe cannot support the bill in its entirety unless changes are made.

We are concerned that there are no Indian blood quantum requirements; no provisions for students returning to public school if they move from an area after a tribe has constructed a school; no provisions to buy land for construction of schools; no provisions for special education for mentally or physically handicapped, or gifted students, and no definition of "tribes participation" regarding the development of an educational plan.

We recognize that the intent of the bill is for the betterment of Indian education. However, these issues must be addressed in order that we may have improvements in Indian education.

We are proposing that an Indian blood quantum requirement or eligibility be written into the bill to insure that it will be Indian people benefiting.

Second, in the event that a tribe elects to withdraw their children from a public school and construct their own school, there must be provisions allowing students moving from the area to return to public school before 5 or 10 years.

The Sisseton-Wahpeton Sioux Tribe is in a unique situation concerning school construction. Through special appropriations two schools were built for the tribe. Although these buildings were built for the tribe, the Sisseton Public School District is operating both. These buildings are, however, built on public school land. In the event the tribe chooses to operate their own school and asks for the return of both buildings, the school district may decide not to allow the tribe to use the land on which the buildings are situated. Because of this situation we are proposing that provisions be made allowing for the condemnation and purchase of lands for tribally operated schools.

There should also be provisions allowing for special education of physically or mentally handicapped, and gifted students. We do not feel that these types of students can be educated at the same level as the average students are.

And, there must also be a definition of "tribal participation" regarding the development of educational plans. To what degree will the tribes be allowed to participate?

Although there are a number of issues that must be addressed before we can support the bill in its entirety, there are also certain points of which we are in support. We feel that parts of the bill will give Indian tribes more input and control over the education of

211

their children. These hearings come at a time when, again, the tribe is battling with the school board over their failure to provide effective remedial reading programs for our children.

The superintendent of the Sisseton Public School District is involved in a legal issue with the tribe. Although this matter has nothing whatsoever to do with education, it is my understanding that he has indicated to tribal members that since he was fighting the tribe on one level, he would fight them on every level. We have recently opened a juvenile detention center and have students in there that are coming from outside the school district. He will not allow those students into the school, even though they have been there for 30 to 90 days, while we are waiting for clarification of the State law.

At this time I would like to turn it over to Nancy Smith.

Ms. SMITH. Does everybody have a copy of my statement?

The following testimony concerns events which have occurred in the past 2 years. It serves to illustrate one LIEB and its relationship with its particular LEA school board. We would hope that it is an indication of a crucial need: Indian controlled education.

There are six pages there, and what I would just like to do is summarize the whole thing.

The Sisseton Indian Education Committee has two special JOM programs in the school right now. One of them is the bilingual-bicultural program, and the other is the reading development program, which at this time is sort of in limbo because we do not know which way to go with it.

Anyway, with the bilingual program, it was implemented in 1976–77 and is only in its second year. The problem with the program is that we have it in all of our schools from kindergarten up to 12th grade, but only one class is credited, the other ones are not; and there is probably not too much hope of that being done.

As we stand right now, the bilingual-bicultural program will not be approved by the school next year because of certain events which have occurred in the past couple of months.

With the reading development program, arrangements were made in May and June of 1976 to implement it for children with reading disabilities. The superintendent of the school, Mr. Morris Rabenberg and the principal of the school agreed to the program. When September rolled around they implemented their own program. They hired a teacher which the SIEC did not approve of. The program consisted of comic books which they feel Indian children can relate to, and games purchased from the local drugstore.

Members of the parent committee visited the program, and they were just really appalled by the program that was implemented. They said, "We do not want that. We suggested a specific program, why was it not implemented?" So, the superintendent agreed to renegotiate for our program. And as of right now we have not gotten together to renegotiate, and it is almost the end of the school year.

So, what we did, we called in some lawyers from the Native American Rights Fund to help us negotiate with the superintendent; and the chairman of the school board will not agree to meet with them; they will not come and sit down with us. So, finally we had a meeting together in January, and the superintendent specifically asked our lawyers to write up a new contract to possibly implement the program for the rest of the semester, and if not, for the beginning of the next school year.

So, we were supposed to meet the first week of February, and the school board said that they probably could not meet this month at all. So, the possibility of getting our program implemented for the rest of the year is not very likely. They have given indications that they probably will not approve the program for the next year. That is where we stand.

Also last year, before we signed the Johnson-O'Malley support contract we decided to have the lawyers from the Native American Rights Fund come in and write us a contract, which they did; and it looks like we are going to have to do the same thing next year.

Anyway, to summarize it, the local Indian education board has to call in a lawyer for any kind of negotiations that we do with the school board, I do not care what it is or how small it is. The superintendent and the school board will not sit down with us and negotiate. We have to do everything through a lawyer.

On the last page I have a list of recommendations for H.R. 9810 from the Sisseton Indian Education Committee, and I will go through that very quickly.

First of all, the Sisseton Indian Education Committee cannot support H.R. 9810 as it is written, and these are the recommendations.

1. We feel that H.R. 9810 should include a local Indian education board with similar powers and duties to the JOM.

2. There is a tremendous lack of communication between the boards, the Sisseton Indian Education Board and the school board. The Sisseton Indian Education Committee, or the local Indian education board should have some kind of insurance that their programs or recommendations will be implemented without having to go through the hassles that we have gone through.

3. Because it is almost impossible to get Indian parents on a school board in a community like Sisseton, H.R. 9810 should include a formula for seating Indian parents on the school board. Perhaps there should be a percentage based on the number of Indian students in the district, or a regular election could be held just for Indian parents.

4. H.R. 9810 should include funds for the purchase of school property.

5. In the situation where a public school has a use permit for a BIA-built school, the BIA should turn title over to the tribe for whom the funds were originally appropriated.

6. Moneys allocated for Indian children should be used exclusively for Indian children. None should be used for non-Indian children at all. This should be made patently clear in the H.R. 9810 rules and regulations.

7. No matter how many dollars are designated to Indian programs, the white taxpayers in the school district have the attitude that the money is theirs, and Indian parents should have no voice in where the money should be spent. The Sisseton Indian Education Committee recommends that they—the local taxpayers—receive a clarification of the intent of dollars appropriated expressly for Indian children.

Mr. Blouin. Thank you. Mr. Joe McDonald?

[The prepared testimony of Joseph McDonald follows:]

TESTIMONY OF JOSEPH F. MCDONALD
TRIBAL COUNCILMAN OF THE CONFEDERATED
SALISH AND KOOTENAI TRIBES OF THE FLATHEAD RESERVATION
BEFORE THE ADVISORY GROUP ON INDIAN EDUCATION
OF THE COMMITTEE ON EDUCATION AND LABOR
U.S. HOUSE OF REPRESENTATIVES

February 8, 1978

Mr. Chairman,

My name is Joe McDonald, I am a member of the tribal council of the Confederated Salish and Kootenai Tribes of the Flathead Reservation, and I am here to testify in support of H.R. 9810. My reservation is located in western Montana. It is a reservation that had all of its non-allotted land made available to homesteaders in 1910.

Much of the land that was not taken by homesteaders was sold by the Indian allottees. The reservation was soon settled by non-Indian people and was included in the county organization of Montana.

The formal schooling that was promised my tribe in the terms of the Hellgate Treaty has been continually directed by people other than the Indian people--first, well meaning Catholic missionaries; second, federal government-directed schools; and finally, local public schools directed by elected boards of non-Indians.

We strongly support Section 2(a)(1)(F)(2)(C), especially (iii-v) that guarantees that the local school district must actively solicit the views of the Indian community where the children to be served live.

Indian participation on local public school boards on our reservation has been practically non-existent throughout the entire life of our reservation. The two largest school districts on the reservation--Polson and Ronan--have never had an Indian person serve on the board of trustees of their respective school districts. A few years ago, two Indian people in Ronan ran for the school board. The non-Indian people launched a vigorous campaign to see that these two people were not elected.

It was the largest voter turnout in the district's history, and the two Indian candidates were soundly defeated by almost identical margins.

The proposed amendments to P.L. 874 by H.R. 9810 will insure Indian participation in planning the educational program of the school. Once the communication is started, both sides will soon agree that their educational goals for their children are very similar. It is with this in mind that my tribe wholeheartedly supports H.R. 9810.

STATEMENT OF JOSEPH F. McDONALD, TRIBAL COUNCILMAN, CONFEDERATED SALISH AND KOOTENAI TRIBES OF THE FLATHEAD RESERVATION

Mr. McDONALD. Mr. Chairman, I represent the Confederated Salish and Kootenai Tribes, known probably better as the Flathead Tribe, located in western Montana.

I came here on behalf of the tribal council to testify in support of H.R. 9810. Our reservation is a reservation that was opened to homesteaders back in 1910, and the allotted land passed out of Indian ownership quite quickly through the 1920's and 1930's. So, my tribe is pretty much a minority group on their own reservation. We make up about 20 percent of the population.

The schooling that was guaranteed the tribe in the Hellgate Treaty in 1855, which established the reservation, has been directed by people other than Indians. First it was turned over to missionaries, and second we had some Government schools on the reservation; and then, as local school districts were formed, we began to have public schools.

We do not have very many Indian people participating on school boards. The two largest districts on the reservation do not have any. We tried a couple years ago to get an Indian elected to the school board, and they turned out in full force, had a record turnout of voters. We had people show up that we thought had been dead for many years. We had not seen them. It was the largest turnout in history.

Mr. BLOUIN. You saw them on election day.

Mr. McDONALD. Yes, we saw them on election day.

We do need to have input. The school district that I represent in the tribal council does not receive Title IV money or Johnson-O'Malley money. It refused to use it because they feel it is discriminatory money.

They do take the 874 funds, and we have long wanted participation by Indian people mandated in order to receive Public Law 874 funds, and this law does that. For that reason we support it. We think it is a good one.

Mr. BLOUIN. Thank you. That was simple.

Mr. McDONALD. Right.

Mr. BLOUIN. I have several questions that I would like to direct first to Mr. Lovato. What, in the proposed law, can be changed to clarify the confusion over HEW control? In the bill as it is drafted nothing is added for HEW that is not already there, and nothing is taken away from the BIA in terms of the flow of dollars and so on. And yet, today—and I think yesterday—we have now heard from two tribes who referred to that as a concern. Well, the first time I had heard it referred to was in the drafting stage. We are definitely against moving BIA programs to HEW.

Mr. LOVATO. Well, I think there is that implication or inference in the bill as it presently is. Maybe I am just misunderstanding it.

Mr. BLOUIN. How would you clarify it?

Mr. LOVATO. Well, I think first of all, Mr. Chairman, you have to look at Indian programs within HEW as they presently are. I am tired of saying that HEW has not always demonstrated a good knowledge of Indian education, but I think some of the title programs within HEW are classic examples.

In other words, they have their own headaches and their own problems, and I think attempting to somehow fuse the two to work together on this particular issue is not the answer. I do agree, however, that the provisions within 9810 dealing with certain changes, which are geared all towards giving more local voice, local participation—from the personnel system to the process of giving the Indian advisory boards more of a status as a school board, so to speak, are good.

Again, however, I feel the voice of tribal government ought to be considered and clarified. Who is going to speak or make that final decisions in terms of the Bureau school, for instance.

All of the provisions dealing with the option of tribal governments to pull out of a public school system in my opinion are very unrealistic. Where to, Mr. Chairman? I mean, the reason we have 80 to 85 percent of our children in public schools is because there are no Bureau facilities.

Mr. BLOUIN. In some parts of the country where you have a concentration in one given area—you are spread out all over the State—it is a fairly simple concept to move them. In Sisseton, for example, we have a concentration of Indian students who physically could be moved, and a potential facility where they could physically be moved to. In that situation it is a workable possibility—in yours it is not.

To make sure I am understanding your concerns, in terms of the Pueblo, we have not given you recourse because it is not a practical alternative.

Mr. LOVATO. All right.

Mr. BLOUIN. What kind of recourse should we put in there? In other situations we have said, "Work it out. If you cannot work it out, pull the money out and go your own route." It is a little more confusing than that.

Mr. LOVATO. Absolutely. I think to make those provisions work in the Pueblo community, first of all, you have a prerequisite which you have to deal with. That prerequisite, in our estimation, is if there is going to be an alternative, then there has to be some school construction. You know, just reviewing the present facilities we have for safety and defects, it has been done, it is an old story; we all know that.

Well, let us not waste any more money on that. We know those facilities are grossly inadequate.

Mr. BLOUIN. The bill would provide for construction funds for an Indian school if the tribe opted to go that route as a final recourse. That is one of the reasons it is a long process when you pull out. The decision to pull out and build a facility has to be a very apparent, obvious decision made with all eyes open. If a lot of money is to be spent, there has to be a permanent commitment.

Mr. LOVATO. I agree, Mr. Chairman. But I think there are some—I guess you call them political realities there that cannot be overlooked. I mean, in our State—and I think in States across the country—we are hearing all about the Indian being a tax burden, so to speak.

Mr. **Blouin**. You are taking about the realities of the Appropriations Committees not coming through with funds.

Mr. **Lovato**. Absolutely. We are having difficulty right now just in meeting the construction needs of 10 years ago, we have a backlog. I am sorry to say, I think the realities here in Congress are such that we cannot always count on those moneys coming in.

Mr. **Blouin**. From the few contacts I have had with that construction problem. I would lay most of the blame right on the doorstep of the BIA.

Mr. **Lovato**. I agree.

Mr. **Blouin**. We as of today do not know where they are going and why. Every time we have them in, they have a different printout.

Mr. **Lovato**. And we are the victims of that, Mr. Chairman.

Mr. **Blouin**. Would you prefer, if we cannot tailor some of these things for your kind of situation without doing violence to the recourse where it will work, would you prefer the existing law over the changes, even though those changes would guarantee additional funding, and more control?

Mr. **Lovato**. Mr. Chairman, as I have indicated, there are provisions within 9810 which are excellent. Certainly, the overall objectives are great.

The only problem I think we are having in terms of the Bureau's educational reorganization is that we already have one ongoing over there. Look at the entire Bureau operations, and take just education in this instance and attempt to revamp that particular division. While that other Bureau reorganization is going on there right now, I just have a feeling we are going to wind up with a very chaotic and unworkable situation.

Mr. **Pressler**. Did you review the recommendations from your colleagues, the Sisseton-Wahpeton Sioux Tribe, and would they meet your requirements?

Mr. **Lovato**. Would you repeat the question?

Mr. **Pressler**. Yes. Have you reviewed the recommendations, the I think very good and specific recommendations on the last page of the Sisseton—I believe Miss Smith's—statement?

Mr. **Lovato**. I do not have a copy of that.

Mr. **Pressler**. Maybe you can be provided a copy later. I would be very interested in your reaction to those seven points. You do not have time to do it now.

Thank you, Mr. Chairman.

Mr. **Blouin**. I am going to move over for a moment to Sisseton. Nancy, I have several questions.

What kind of a blood quantum would the Sioux put in, if they could? We have been trying to get a handle on blood quantums for years.

Ms. **LaFromboise**. I would imagine a quarter blood.

Mr. **Blouin**. A quarter, 25 percent?

Ms. **LaFromboise**. Yes.

Mr. **Blouin**. What do you do with the tribes that recognize anyone as an Indian that is living on a reservation?

218

Ms. **LaFromboise.** We have a question on that, too.

Mr. **Blouin.** The Sisseton Sioux requirement is one-eighth.

Ms. **LaFromboise.** Yes, but that is coming up for a vote shortly, and the tribal council went on record to only enroll one-quarter blood.

Mr. **Blouin.** One one-quarter blood in the contract schools?

Ms. **LaFromboise.** In the tribe.

Ms. **Smith.** For tribal enrollment.

Mr. **Blouin.** For tribal enrollment, all right. You know, that varies greatly around the country from tribe to tribe, and from region to region.

Ms. **LaFromboise.** Well, at this time Johnson-O'Malley only recognizes one-quarter blood.

Mr. **Blouin.** Johnson-O'Malley does. In 874 it is questionable whether there is any definition. I know OE has no definition of Indian in terms of blood quantum. Has that caused problems out your way?

Ms. **LaFromboise.** Not really.

Mr. **Blouin.** So, that is not a big point, but someone, somewhere, is going to have to clarify it some day.

Ms. **LaFromboise.** Well, see, the problem we had is Johnson-O'Malley's referring to it that way. The tribe enrolled members in the beginning and there was a total amount of Indians that were enrolled; and they came in and got the land, and all that. We are trying to avoid that.

Mr. **Blouin.** I see. Del or Joe, do you have any response to that question on blood quantum problem?

Mr. **McDonald.** It has been a problem on our reservation because the local boards, Johnson-O'Malley and Title IV have been discriminatory in that the funds are just utilized for Indian children. I guess I would not want that in 874 because in 874 you are trying to provide for basic education, and you need funds for the basic education, however they come. We do not have a large tax assessment, property tax in our school district, so 874 funds could not be used in the general fund. It would not help because we need to get the funds in the general fund to offset the high property tax in the district.

Mr. **Blouin.** Is this something that could be left up to the tribal councils. That is, if there are people there that they do not consider Indians, let the individual tribe reject that membership claim?

Mr. **Lovato.** Mr. Chairman, as far as the 19 pueblos are concerned, that is the way it is generally handled. In other words, they have their own enrollment rules and regulations as part of the inherent powers of that tribe.

But I think to answer your question just one step further, I think those that have problems with the blood quantum are many of the Federal agencies because there is inconsistency right here between various departments, various programs who have blood quantum requirements. That is one of the recommendations that we are seriously pursuing, the inconsistency between the various departments and programs in terms of how they handle this particular issue.

Mr. **Blouin.** Susan, would that satisfy your concern, referring it back to the Sisseton Sioux Tribe to decide, tribal council?

Ms. **LaFromboise.** Yes.

Mr. **Blouin**. They decide it, make that decision.

Mr. **Quie**. Your second point is a good one. Should we put that in the legislation? For reservation Indians it would be left up to the tribe. Would that be necessary, on blood quantum?

Ms. **LaFromboise**. I think so for our area.

Mr. **Quie**. Put it in the legislation, let the tribe decide.

Ms. **LaFromboise**. Yes.

Mr. **Blouin**. I just do not want an agency to take that as a tipoff to get a big, long form off to the tribal council to verify for each Indian student whether he is a member, or not. I can see it coming now. There should be a simple way to get a very quick answer to that question.

Mr. **McDonald**. We have a lot of Indian people on our reservation that are not members because they have to be one-quarter Salish and Kootenai to be members. We have a lot of intermarriage, a lot of Indian children. We have a lot of Indian children who are not living on Indian land but they are living in substandard housing. So, right now we cannot apply and get part (b) funds under 874.

Mr. **Blouin**. How would you handle your second point, Susan, that you raised? It is a troubling point, the situation where the tribe would pull out their children and build a school. As you mentioned earlier, alluded to, the 10-year time period barrier. Everyone is very much aware of a commitment for a building that a year later is empty. However there are some students that reserve their right to go back. How would you track the funds on that? If the flow of funds follows the student, and if the school figures they can lure about half of those kids back and break the financial back of the contract school that the Indians have just built—you take away the incentive to make it work. Do you see what I mean?

Ms. **LaFromboise**. Yes.

Mr. **Blouin**. How would you correct that very troubling problem?

Ms. **LaFromboise**. Well, we have that problem right now with the school board. When a student leaves that school, they do not send any money with him.

Mr. **Blouin**. Well, now though, technically, when that student leaves that school he goes to a BIA school, or Indian contract school. Technically their aid is reduced by that one student; and technically BIA is supposed to see to it that funds are there for that kid in the contract or BIA setting. It is generally a year later when they plug their formula in and pick up that kid and count him. And it is probably another year before the funds actually show up.

But in theory it does adjust itself that way. In the bill here, as it is written, it may not work that way.

Ms. **LaFromboise**. Well, I do not really know how you can do this one. I imagine they would have to have a consensus of the tribe before they did do that, the tribal members. But what I am saying right here is, there should be provisions for students leaving that area to return to a public school for 5 or 10 years, if schools are constructed.

Mr. **Blouin**. I do not know how you can mandate that the kid stay in the new school, first of all. And unless there is some limitation on how flexible the tribe is to close that school and go back, the fear of a lot of members as they look at this legislation is that tribes are going to be building schools all over the place, and a year later decide they do not really need them and go back to the local public schools that are there. We start to lose support for the bill in the process.

So, in an effort to respond to that concern we will put a limit, the life of that school is probably 20, 30, 40 years; even if the BIA builds it, it is probably leased for 10 or 20. So, perhaps we could say that school cannot return once the decision is made for a period of time.

Ms. **LaFromboise.** Well, in our situation there would not be a school to return to because the building that the school is operating out of is the tribal government's.

Mr. **Blouin.** I am sorry, could you repeat that?

Ms. **LaFromboise.** I said that in our situation there would not be a school to return to if we did decide to have our own school.

Mr. **Blouin.** That would be the school.

Ms. **LaFromboise.** Yes.

Mr. **Blouin.** It would replace the public school.

Ms. **LaFromboise.** They would be contracting with us.

Mr. **Blouin.** What percentage of the school—we have been there but I do not remember—what was the percentage of the school that was Anglo?

Ms. **Smith.** I would say probably 70 percent.

Mr. **Blouin.** Seventy percent. So, they would build another school anyway, a public school; you would still have the problem.

The full committee is meeting downstairs, and they have asked us to recess for a couple of minutes so that we can get recorded in a quorum.

Mr. Quie will continue with questions, and I will be back in a minute.

Mr. **Quie** [presiding]. If the tribe does take over the school and runs it as a contract school, what about the children who might want to go back to the public school?

Ms. **LaFromboise.** As I see it, they would have to raise taxes to build their own schools, and I am sure they would not do it; they would be contracting new students into tribe schools. There would be no public school to go back to in the immediate future.

Mr. **Quie.** Yes. But let us suppose we had a situation where there was a break between the two groups, the Indian reservation and the non-Indians who were outside, so, you ended up, let us say, 10 years down the pike where they did have a school out there, and you had your own school, and some of the Indian students wanted to go to public school. Could we not consider that in the same way as between two school districts, where students of one school district want to go to another school district? The way it is now, the parents would have to pay for the education of the children in the other school district.

If there is a program, for instance a special education program over in the other school district in Minnesota, then the State and that local school district together pay for the total cost for that student over in the other school district. They work it out so there is an agreement on both sides.

Ms. **LaFromboise**. I imagine they would have to work it out, come to an agreement.

Mr. **Quie**. So, if the tribe could agree, where students wanted to be over there where there was a special program for them that would be better, the tribe would just let their 874 money and their other money be made available to the public school. I assume then the tribe would be in control of it and decide whether that could be done or not. There is a lot of politics in that as well.

Ms. **LaFromboise**. Right.

Mr. **Quie**. That is the only way I can see it being resolved.

On the other question, there being no provisions for special education for mentally and physically handicapped, and gifted students, there is other federal legislation for the physically and mentally handicapped. The predominant assistance for special education for handicapped student comes from the state level now, across the nation.

Now, is your concern whether that State aid will be transferred over to them?

Ms. **LaFromboise**. I see a problem too, that the school may not even want to contract for this because of the situation, the bad feelings between the tribal members and the non-Indians. Also in the bill here, section (b), nothing in the subsection will be interpreted as encouraging the creation of separate or segregated programs except for bilingual. That is what I was concerned with, there is no provision in that section for handicapped or gifted.

Mr. **Quie**. I think you have raised a question that we have not fully analyzed, especially if there is a separate school system, a contract school. We better take a look at it because we do not want students to end up without special education that they need because of that choice. Can I ask if you are faced with that at all, Mr. McDonald?

Mr. **McDonald**. No. The money comes to the State in the block grant, I guess. Then, we do not have any programs for the gifted.

Mr. **Quie**. We will leave the gifted aside and talk about special education.

Mr. **McDonald**. We have a good special education law.

Mr. **Quie**. How was that funded for your school?

Mr. **McDonald**. It is a separate budget. The school district has a separate budget, what it will take to meet the needs of special education is submitted to the State. If it is approved, then it is funded directly from the State; it does not become part of the general budget.

Mr. **Quie**. So, that is primarily State funded.

Mr. **McDonald**. Yes. George Tallchief here might answer that, he is a superintendent of a school in Montana.

Mr. **Tallchief**. The State tests, you know, to determine the eligibility of the student. That is done by a psychologist, not by the school district but by a psychologist. Then you are funded for the needs. The money goes only for that particular area. In our district, for example, we have four special education teachers. That is the way it is done throughout the State.

Mr. QUIE. How is special education made available for contract schools?

Mr. LOVATO. We do not have it right now in a facility that was contracted. We do not have special education components in there but we are working on developing one. But again, that will have to come through Federal funding because the State, although our institution or the school is accredited through State accreditation, it does not receive any special education moneys.

Mr. QUIE. What happens to the handicapped children now? Are they just without a program?

Mr. LOVATO. No. The State of New Mexico also has a State-supported special education program. It is my understanding the majority of that program is also financed through the State. They do receive some Federal funds, however.

Mr. QUIE. Then a student who would otherwise go to a contract school would go to another school for special education?

Mr. LOVATO. No, they do not. As a matter of fact, there is just no special education program at the community school right now, there never has been.

Mr. QUIE. So, if there are any handicapped children going to that school, they do not get the services.

Mr. LOVATO. That is right.

Mr. QUIE. I see. Then we are faced with the problem if they decided to have a contract school instead of a public school, then what happens to the special education program that the State is now funding?

Mr. LOVATO. Mr. Chairman, I think the Bureau does do it, its own special service program does assist children within the BIA, for instance, to get into special programs if they are handicapped, or for whatever reason need special help.

Mr. QUIE. To go to another school, or get programs within the school?

Mr. LOVATO. Get programs within the school, and sometimes they get institutionalized types of situations.

Mr. MCDONALD. Mr. Chairman, the problem is, if we did pull out —and I see your question—we would not be able to work with the State, I am sure, providing that; which brings up the whole area of block grants to States to serve special needs, and then it does not get on down to the reservation. That happens in a lot of areas.

Mr. ANSARA. I am Joe Ansara, Lieutenant Governor from Pueblo San Felipe, here with the Pueblo Indian delegation. I am representing the pueblo San Felipe with our Governor, Juan Valencia.

Mr. QUIE. I would like to respond to your question in respect to special education. The pueblo San Felipe has a Bureau school, an elementary facility, and we do have a special education program, which is within the Bureau program there at the school.

However, one of the concerns of the special education program that is afforded the community there through the Bureau has been that it is only provided in our lower elementary grades through, say, the third grade; and beyond that we have nothing to which to send these children for further special education training. As Mr. Lovato stated, special education is nonexistent at the presently contracted school in Albuquerque, the Albuquerque Indian school.

So, this definitely does create a problem as far as what do we do with children beyond the third grade. What has happened, and what is going on now, we have children there that have continued to stay at the present elementary facility, not being able to go out into the public school system even at that point.

The situation in San Felipe is one where we do have a Bureau school, an elementary Bureau-funded school. And at grade four our children are then bused to a neighboring reservation where a public school exists in the fifth and sixth grade. The seventh and eighth graders, on through high school, they are bused to a neighboring town of Bernalillo, N.Mex., for junior high and high school in the public school system in the Bernalillo school district. This has created many problems, and this is the basis for which San Felipe has requested construction of a new facility, a "K" through eight facility on our own reservation, so that we can provide a better followup where problems are most prevalent in absenteeism and dropouts; these are really high.

As our children leave the reservation at grade four, in the transition into the public school system we lose a lot because there is no coordination. For some reason or other the Bureau school operates pretty much on its own. The public school system then takes our children and does whatever it does with them. But there has never been a coordination or cooperation between the two systems to provide some continuity, some help in adjustment to the new environment or new situation that our children are put into after they leave the Bureau school and transfer into the public school.

It is sad to have to see fourth graders dropping out of school at such an early age. This is a far cry from the objectives and concerns we have in providing an education for our children.

So, our biggest—right now—need is a "K" through eight facility on the San Felipe Pueblo Reservation. Yes, we do have public schools within a 25-mile radius, which in fact has worked against us through the BIA regulations whereby construction is prohibited where there are public schools within 25 miles of the reservation. But the schools being there has not helped in particularly elementary grades. It also takes away parental participation. People in our community are not all able to attend parent-teacher meetings or visit the schools because —well, they are not that far, but not everybody is able is able to get around, or has transportation to get around.

This is one of the things we have stressed highly in the community, to have parents participate, be involved in the school. I believe that we can meet all of these objectives if the Bureau would consider funding a new school. We have been on the list for school construction for 10, 15 years now. At one time we were no. 1 on the priority list. In December of 1977 the Bureau informed us that we were no. 4 on the list; and we found out yesterday that we are somewhere between 1 and 30. This is what has happened over the last few years. For whatever reason, I do not know.

Mr. QUIE. They do not tell you why you are shifted around?

Mr. ANSARA. No, they are not able to tell us why.

Mr. Lovato. What happens, Mr. Chairman, they keep shifting their criteria. Every new director or GS-18 comes in, he has his own ideas just on how to resolve this thing. And now I understand the Appropriations Committee in the House also has their own ideas on how criteria ought to be used. So, this thing keeps going, 15 years have passed, and we still do not have a new school.

Mr. Quie. I would like to see some of this put down in the law, so you would at least know what criteria they have addressed, and then you can lobby for a change and everybody can get in the picture.

Mr. Lovato. Absolutely.

Mr. Quie. Do you feel the eighth grade is a good transition?

Mr. Ansara. I think our children would be better prepared to make this transition after the eighth grade.

Mr. Quie. The fourth grade must be about the worst.

Mr. Ansara. Yes, it is. As it is, the present system, as you know, where an Indian child whose second language is English, finds it very difficult to adjust in a non-Indian setting. This is where we are discouraging our own children. At least they are discouraged by the fact that they are not able to move right along with their peers. They drop out, and after they have been out for a year it is hard to get them back in because they have lost, certainly, a lot of ground at that point.

The school board, the Bureau school board, as you all know, has acted in an advisory capacity, and there has been little that we have been able to do in the past. There needs to be some serious consideration that the school board be given more policymaking authority in terms of establishing the real needs that exist for the Pueblos. I think as policy advisory committees we are just not effective at all. We are not able to really get any satisfaction in terms of seeing the changes in the types of laws that have been introduced because we have no input. We are just there as a token group, I guess, and are forced to go along with the Bureau policies, particularly in the area of the Indian preference.

Certainly, yes, we all support the Indian preference in respect that, yes, we do want Indians, and if possible our own Indian people from our own community to fill positions in the schools. However, we are not always able to find qualified Indians right away. So, we are stuck with having to choose an Indian. This has delayed the school in terms of where we have had to wait several weeks and even months for an Indian certificate to come down. And when school starts in September and we are still waiting in October for a teacher, school is already in process, this is another problem we have experienced in the personnel with respect to the Indian Self-Determination Act.

So, as was mentioned earlier, that is something we would like to see. Flexibility, a local discretion of school boards to decide whether "yes" we would like this Indian, or "no" because presently we have to wait for all the Indians to come in from the hills, or wherever. We have had Indians clear from New York, who are unfamiliar with the Southwestern Pueblo culture, and we consider that a very, very important element in the teacher's knowledge of local Indians, simply because we are still pretty much traditional and conservative. The cultural heritage plays a very, very important role in our livelihood down there.

Mr. **Quie.** Mr. Pressler?

Mr. **Pressler.** If the gentleman will yield, I want to commend my constituents from the Sisseton-Wahpeton Tribe. There is a markup going on, and I apologize for being in and out of here—there are three things going at once this morning.

I think your statement is very revealing about some of the problems from the Indian point of view in the Sisseton area. I have heard you here, and of course I have also read it.

Now, what was the reaction in this reading program? I want to pursue this a little more. You wanted a certain type of reading program, a very well developed one for remedial reading, and you said the school board just brushed it off and said they would do it differently; is that correct?

Ms. **Smith.** Yes.

Mr. **Pressler.** Now, how many Indians are currently on the Sisseton Public School Board?

Ms. **Smith.** On the school board, none.

Mr. **Pressler.** There are none.

Ms. **LaFromboise.** We had the same problem with that, they turned out en masse; that was the highest turnout in history, and we lost.

Mr. **Pressler.** Now, even if you got somebody on the school board, how many members are on the school board?

Ms. **Smith.** Eight members.

Mr. **Pressler.** Eight members, and you cannot get one on.

Ms. **Smith.** We cannot get one on.

Mr. **Pressler.** What percentage of the population in the school—off the top of your head—do you have, the voting population?

Ms. **Smith.** The voting population?

Mr. **Pressler.** Do you have any comparative numbers?

Ms. **Smith.** I do not know what the voting population is.

Mr. **Pressler.** OK. Now, another question, in your recommendations, Ms. Smith, you suggest where a public school has a use permit for a BIA built school, the tribe should hold title to the building. Now, it would be good to have in the record your reasons why.

Ms. **Smith.** Well, the reasons why is my whole testimony. We are at the state where, I do not care what kind of program, what kind of recommendation we want to make to the school board, they will not listen to us. It is getting to the point where we feel we are knocking our heads against the wall, and we have tried. We want to negotiate a position in the school district, and we feel they should give us one.

Mr. **Pressler.** So, you feel that the Indian money—if we may call it that—is coming into the school system and that you sit there, and although the money is accounted to the Indians, you have no say about the curriculum or the programs. So, it is a totally run white school with a little extra money. Is that your analysis?

Ms. **Smith.** Yes.

Mr. **Pressler.** Now, in your second recommendation on page 6 you state you need to have assurance of programs implemented. You feel the signoff provision in section 2 of this proposed legislation is not inclusive enough to give the Sisseton Tribe adequate voice in the direction of education. Now, that would be the section we have been talking about, the signoff part, I guess; is that right?

Ms. Smith. Yes, I would say it would be.

Mr. Pressler. You would say it does provide approval, or you would say it does not?

Ms. Smith. I would say it would come very close to doing that, yes.

Mr. Pressler. So, you would endorse this piece of legislation in its present form.

Ms. Smith. Not exactly. I think it should be specifically included.

Mr. Pressler. Now, if we are unable to work in all your recommendations, would this legislation be an improvement over the present situation, in your view?

Ms. Smith. If it would insure that the school board, I mean the local education agency, the school district, decided to go for these moneys then they have to live up to recognizing Indian input, then it would be an improvement because as it stands with JOM money, they do not have to do that. I mean, they do not have to sign off with a basic contract.

Mr. Pressler. Incidentally, have you received your JOM basic funds yet, this year?

Ms. Smith. Well, we have not signed off on it, we want to contract for it.

Mr. Pressler. Mr. Chairman, thank you very much. And, thank you for your very fine testimony, Ms. LaFromboise and Miss Smith. If you wish to submit a further statement later on, we will put it in the record. I commend all the witnesses.

We now have a markup, and I have to depart.

Mr. Blouin. I have one more question I would like to ask, and there are others we may submit to you in writing. I would appreciate you responding to this one, Joe McDonald.

Do you see anything in this bill that would run contrary to self-determination. In other words, is there anything in there that in your opinion might hurt self-determination, the Self-Determination Act; or do you think this is a furtherance of it?

Mr. McDonald. I think it is a furtherance of it because it provides legislation for the boarding schools to have more local control, Indian control. Also, it provides a signoff with the basic education program in public schools. So, I think it is carrying on the philosophy of self-determination.

Mr. Blouin. How about either of the other witnesses?

Mr. Lovato. Mr. Chairman, I do not see any inconsistency, generally speaking. I think again, however, the problem with 93-638 is the extent to which we can utilize it because of our BIA funding process. We have two agencies that service 18 of the pueblos; and 638 is tremendously handicapped. Then, again, the funding is a big problem.

Mr. Blouin. That is something we might be able to find a way around. Susan?

227

Ms. LaFromboise. I feel that it would be a furtherance of Indian self-determination with these changes.

Mr. Blouin. What about without the changes?

Ms. LaFromboise. I see problems arising that there will be a lot of non-Indians benefiting from this bill, rather than Indians.

Mr. Blouin. You talk about the blood quantum?

Ms. LaFromboise. Yes.

Mr. Blouin. If we make the change, I think that is one change we can easily make if we mean giving that discretion to tribal councils on a tribe-by-tribe basis. That would probably speak to the biggest concern, would it not?

Ms. LaFromboise. Yes.

Mr. Blouin. All right.

Ms. LaFromboise. I did have one more problem, though, the definition of tribal participation in developing educational plans. Is that going to be one person, or one representative from each tribe being outvoted by eight? We need clarification on that.

Mr. Blouin. In other words, what percentage of the overall policymaking commission is going to be Indian.

Ms. LaFromboise. Yes.

Mr. Blouin. That is a good question.

Mr. Lovesee. The tribe would designate who would take part in the formulation of the plan. However the tribe would still have the signoff on the application. So, in other words, there would never be a situation where the eight could overrule the one and let it go at that, because if the tribe felt that their individual would not have sufficient input, they would simply not sign off on the funds.

Ms. LaFromboise. Then that may be a standoff.

Mr. Blouin. You are talking about down to the point of whether the money is going into that school, or not, it is a standoff. It is worse than a standoff today. You can make recommendations, and they may or may not listen to them; or say they are, and ignore it, which is your specific problem.

But you are not only mandated input in this bill, but you are given recourse. You have the ultimate control of whether those funds are going to continue to go into that school, or not. And you have an alternate, it would not be a situation of, "We will pull out kids out and have nothing," but, "We will pull our kids out and have a school."

Ms. LaFromboise. Well, if it comes down to one program, such as this reading program, the tribe fully wanted that, the school board did not. It comes down to how long it is going to take for this contract to get through. We would like more input, rather than just one person.

Mr. Blouin. Yes. I think we can probably give some more input than that. If the tribe wanted to send the whole council, I see no problem with that, either. However, I think it would be hard to find the whole council willing to go do it. There are always two or three experts in any given area in any council, and that would probably be the ones they would want to have their time spent on.

You would be satisfied as long as you, as the Indian tribe, have control over that program, and by having control over the purse strings, you effectively have control over the program. Especially the Sisseton, where they get a heck of a lot more dollars because of Indian presence than they are because of white presence in that school. If I remember the formula, they are making out like a bandit from the presence of 30 percent Indians in that school. They spread it out and everybody is benefiting in that school from it. However, the tribe has very little input. In a situation like that, where they sit down and count up dollars and they look at what is going to happen to their school if 30 percent pull out and the money goes with them, I think they are going to find some common ground pretty quick.

Ms. **LaFromboise.** I think it is $1,800 per Indian child that comes in there; and taxes for each non-Indian is $600. The national average is $1,200. So, actually what we are doing is picking up the other $600.

Mr. **Blouin.** Sure. It has been a while since I have looked at the breakdown, but from the statistics that I saw, I think you can really prove that point. I am not sure of the flow around other parts of the country, but in that particular school, I think, it is pretty clear.

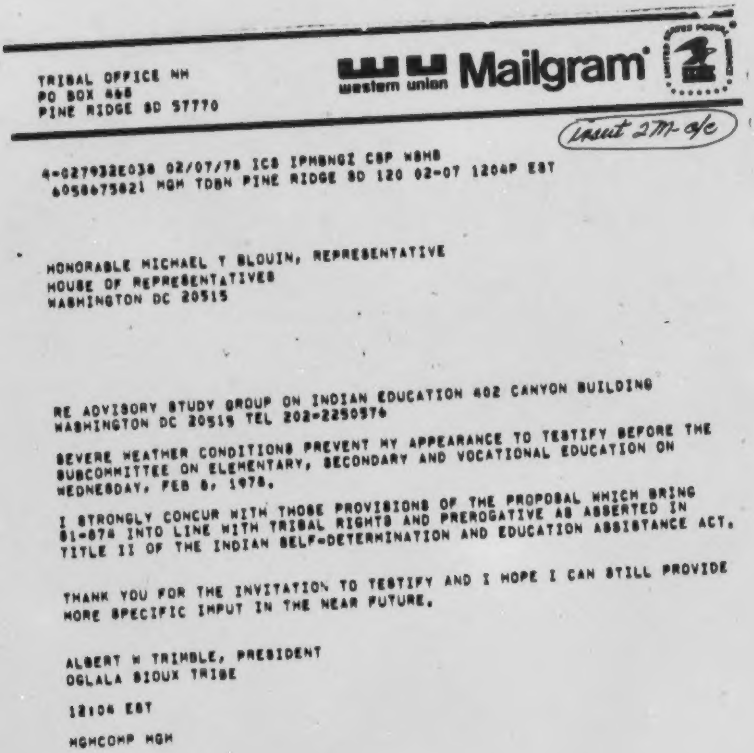
We thank all of you for coming.

We will adjourn at this point. We will reconvene tomorrow at 1:30 in the afternoon for the third of the 3-day hearings.

Thank you very much for being here.

[Whereupon, at 11:40 a.m. the subcommittee adjourned, to reconvene at 1:30 p.m., Thursday, February 9, 1978.]

[Material submitted for inclusion in the record follows:]



TRIBAL OFFICE NM
PO BOX 468
PINE RIDGE SD 57770

western union Mailgram

Insert 2M- a/c

4-027932E038 02/07/78 ICS IPMBNGZ CSP WSHB
6058675821 MGM TDBN PINE RIDGE SD 120 02-07 1204P EST

HONORABLE MICHAEL T BLOUIN, REPRESENTATIVE
HOUSE OF REPRESENTATIVES
WASHINGTON DC 20515

RE ADVISORY STUDY GROUP ON INDIAN EDUCATION 402 CANYON BUILDING
WASHINGTON DC 20515 TEL 202-2250576

SEVERE WEATHER CONDITIONS PREVENT MY APPEARANCE TO TESTIFY BEFORE THE SUBCOMMITTEE ON ELEMENTARY, SECONDARY AND VOCATIONAL EDUCATION ON WEDNESDAY, FEB 8, 1978.

I STRONGLY CONCUR WITH THOSE PROVISIONS OF THE PROPOSAL WHICH BRING 81-874 INTO LINE WITH TRIBAL RIGHTS AND PREROGATIVE AS ASSERTED IN TITLE II OF THE INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT.

THANK YOU FOR THE INVITATION TO TESTIFY AND I HOPE I CAN STILL PROVIDE MORE SPECIFIC INPUT IN THE NEAR FUTURE.

ALBERT W TRIMBLE, PRESIDENT
OGLALA SIOUX TRIBE

12:04 EST

MGMCOMP MGM

INDIAN BASIC EDUCATION ACT

THURSDAY, FEBRUARY 9, 1978

House of Representatives,
Subcommittee on Elementary, Secondary
and Vocational Education,
Committee on Education and Labor,
Washington, D.C.

The subcommittee met at 1:40 p.m., pursuant to recess, in room 2261, Rayburn House Office Building, Hon. Michael T. Blouin, presiding.

Members present: Representatives Blouin, Mottl, Quie, and Pressler.

Staff present: Alan Lovesee, majority counsel; John Forkenbrock, majority staff director; Jeff McFarland, Scherri Tucker, and Mary Fran Breathitt, majority staff; and Jennifer Wysong, minority research assistant.

Mr. Blouin. The subcommittee will come to order.

The Subcommittee on Elementary, Secondary and Vocational Education, in conjunction with the Advisory Study Group on Indian Education, is conducting its third day of hearings on H.R. 9810, the Indian Basic Education Act.

During these hearings we have tried to obtain input from official representatives of Indian tribal governments. We regard this testimony as the ultimate expression of self-determination, an expression too often missing with respect to Congress' relationship with Indian governments. With this in mind, I welcome the witnesses.

Unfortunately, simple maters of time and situation have made it impossible for us to receive oral testimony from everyone. I want to make it clear that the record will remain open for the official input of tribes other than those who are testifying today.

Unfortunately, the representative of the Seneca Nation could not be here today, but their testimony, which is very supportive of the bill, will be placed in the record.

[Testimony submitted by Calvin Lay follows:]

TESTIMONY SUBMITTED TO THE
ADVISORY STUDY GROUP
ON INDIAN EDUCATION
OF THE COMMITTEE ON EDUCATION AND LABOR
Carl D. Perkins, Chairman

on
H.R. [redacted] 9810

Submitted by:
Seneca Nation of Indians
P.O. Box 231
Salamanca, NY 14779

Mr. Calvin Lay
President

Introduction

It is indeed a pleasure to address this subcommittee on behalf of my tribe. My name is Calvin Lay. I am President of the Seneca Nation of Indians. The Seneca Nation of Indians is a member tribe of the Iroquois Confederacy. The Confederacy is made up of six Indian nations: Seneca, Cayuga, Onondaga, Oneida, Mohawk and Tuscarora.

The Seneca Nation is located in the Western part of New York State on land set aside by the Treaty of Canandaigua of 1794. The Senecas once owned all of Western New York and held land in the State of Pennsylvania.

The Seneca Nation is comprised of three tracts of land. The Cattaraugus Reservation of 20,168 acres is located near Gowanda, New York. It takes its name from nearby Cattaraugus Creek. The Allegany Reserve, originally 30,469 acres, is located near Salamanca, New York, along the banks of the Allegany River. Due to flooding problems in the down river Pennsylvania area, land was taken in 1964 by the U. S. Army Corps of Engineers for the Kinzua Dam Project. This left the Allegany Reservation with approximately 20,469 acres which includes the City of Salamanca. The Oil Spring Reserve, located near Cuba, New York, is approximately one square mile in area and is not inhabited by any members of the tribe.

The current population is 5,175 members on the tribal roll. Of this number, 854 reside on Allegany Reserve; 1,926 on the Cattaraugus Reserve; and the remainder is scattered throughout the United States.

The elected Seneca Nation Executive Officers (President, Treasurer, Clerk) and Tribal Councillors (eight from each inhabited reservation) are involved in many tribe motivated programs to fulfill tribal needs. The President and Councillors are administrating programs focused on health and economic development to benefit the members of the tribe. Among these are health clinics established on Allegany and Cattaraugus Reservations and economic development for both areas including recreational and industrial projects. Also being stressed is renewed instruction of the young people in the Seneca language and traditional crafts. The Nation is concerned, many arts and crafts are being lost.

The Seneca Nation of Indians Educational Program is a bi-cultural program with emphasis placed on both scholastic improvement and instruction in traditional Seneca arts and crafts. Scholastic improvement through tutoring is done in the Salamanca Central School District, the Gowanda School District and the Silver Creek Central School District for children at the Jr. - Sr. High School level. Seneca language and dancing classes are conducted at the Haley and Steamburg Community Buildings on the Allegany Reservation. On the Cattaraugus Reserve, classes are conducted at the Saylor Community Building. Also included in the Seneca Cultural aspects of the Program are wood carving, traditional food preparation and costume making.

At this time, I would like to give you my impression of H.R. 9810 as I view its effects on the Seneca Nation of Indians of New York and all tribes, in general. As you know, the unique status of the Seneca tribe, in terms of sovereignty and authority, has a direct effect on our childrens' education.

Although New York State is not a P.L. 280 State, Indian Education has been legislated since 1846 by the State. Scholarships and public school costs have been funded by the State of New York probably longer than any other similar

State Indian Education program in the country. The intention of the State is very thoughtful and generous. The very idea of the States Indian Education legislative provisions are advanced compared with most States in the country.

There are problems created, nonetheless, as with most well-intended ideas. The whole concept of Indian Education depends on the proper planning, input and implementation processes. There are no BIA schools on either of our Reservations. Thus, very little BIA funding is expended for my tribe's educational needs. The very history of the assimilation of our culture and language can be seen in any history book. The words --Iroquois, Seneca, Oneida, Onondaga, Cayuga, Mohawk and Tuscarora are unfamiliar to most of the general public. It is my hope that I can alter the course in which our Nation is headed. Therefore, I hope that my input concerning the H.R. 9810 will help to address not only my tribe's needs, but also the many similar Indian Education needs across the country.

In completing my analysis of H.R. 9810 I want to acknowledge my debt to several other people and organizations who, though not responsible for my conclusions, nevertheless helped me understand the bill from several different perspectives. In broad terms, H.R. 9810 would accomplish a significant progression in Indian education, primarily by clarifying the policy of P.L. 93-638, The Indian Self-Determination and Education Assistance Act. Although that 1974 measure ushered in a new era in Federal - Indian relations, it left many questions unanswered. For one thing it did little to reform Indian education in public schools. For another, it avoided reforming the BIA's internal structure to accomodate the new self-determination policy. H.R. 9810 addresses these questions, among others.

There are three distinct issues that I feel must be resolved before the measure can be completely and successfully implemented. First, it fails to resolve the dual authority over Indian education presently shared rather tenuously by HEW and BIA. Indeed, the bill would extend the powers of HEW over Indian education in certain significant ways. In my view, this is unfortunate. Secondly, the bill does not go so far as to impose a requirement on States to de-gerrymander public school districts purposely contrived to deprive Indians of political control of schools. A provision for such a requirement would raise significant constitutional questions, and this may be true. Yet many people, including the writer, feel that until this central political issue is addressed, many Indian communities will continue to suffer from inadequate educational opportunities in public schools. Thirdly, the bill does not attempt to direct reform of contracting procedures under P.L. 93-638. These procedures have generally proven inadequate. However, the Committee sponsoring this bill does not have jurisdiction over strictly Indian issues, just education, and so it feels it cannot provide greater relief without risking the involvement of other Congressional committees which may prove more hostile to the basic reforms sought.

Conceptually, the bill also contains certain cumbersome provisions which, though motivated by worthy ends, may prove unworkable or even counter-productive. These include a provision calling for the Commissioner of Education (HEW) to "negotiate" the reconciliation of disputes between Indian tribes and public school districts, and a provision elevating advisory BIA school boards to a position intended to give them real power over BIA schools without contracting the operation of those schools. The first seems to me to invite bureaucracy.

The second, intended to offer Indian communities a variety of flexible approaches to involvement in educational programs short of contracting, may nonetheless serve to undermine self-determination by giving the BIA an easy handle for urging Indian communities not to contract. These provisions do not provide for democratic selection of local advisory school board members, nor do they vest legal control over BIA schools in the advisory boards.

Despite these shortcomings, H.R. 9810 is a fine bill. Taking a long view, the bill marks another step in the direction of a permanent and progressive basis for Indian education, and though it too may not finally decide issues, it advances the general Indian point of view admirably. In particular, it marks a significant step toward Congressional recognition that equal educational opportunity for Indians cannot be achieved through coercive assimilation.

Since the Seneca Nation of Indians' educational system is serviced by a total of four (4) separate and distinct school districts and school boards, I would like to address the issues concerning the sections relating to public schools. The future status of this educational situation will be enhanced if the passage of H.R. 9810 can be achieved. Our main objective is to become necessary and instrumental to the public school systems that serve us. This has not always been the case. The issues that relate to our situation are these:

1. From now on public school districts applying for Section 3(s) funds under P.L. 874 (Impacted Areas Assistance) will have to proceed under an approved educational plan showing how the funds will be used for strictly Indian education purposes and receive the endorsement of Indian tribes to be served (unless the public school board is majority Indian). Until now the requirement that P.L. 874 monies be used solely for Indian education applied only to the special Indian Education Act of 1972. Mainstream P.L. 874 had never been subject to a special requirement concerning Indian needs.

2. More than ever before, this bill would make public school systems aware that in educating Indians they are exercising a Federal function and have responsibilities that are both Federal and State in nature.

3. Most significantly, the bill gives tribes the right to opt out of public school systems which prove unresponsive by creating either tribal -- or BIA -- schools. Along with reforming the BIA's internal structure, this is the bill's chief innovation. It creates a statutory escape valve for those Indian communities

which feel they cannot achieve equal educational opportunity within public schols.

4. The bill requires the BIA for the first time to establish comprehensive educational standards for Indian people.

5. The bill extends LEA status to Indian-controlled (tribal) schools under the Indian Education Act of 1972. This relabelling will enable Indian-controlled schools to receive the formula funds for Indian education provided under Title III of P.L. 874, in addition to receiving the discretionary funds for non-LEAs also provided in that section. (The language of this section in H.R .9810 may have to be amended to make this dual intention clearer.)

6. The bill institutes formula funding and direct funding for all schools financed by the BIA and centralizes the education programs of the BIA under direct Washington authority. The effect is to decrease the policy-making functions of the Area Offices.

7. The bill establishes an education contingency fund to finance a variety of of unforeseen needs, including budget shortfalls and new school starts demanded by Indian tribes.

8. The bill removes the Indian preference requirement for personnel at BIA schools where "local school boards" (defined as BIA advisory boards) exist. (This exemption should be extended to Indian contract schools as well.)

9. The bill gives advisory BIA school boards the right to participate in agency personnel decisions affecting their schools and appeal from adverse decisions.

Subsection (f)(2)(C) deals with approving public school district "plans of basic education". It does not, however, clearly set forth the steps which school districts must take in solicitng the views of the Indian community in developing these plans. In consequence, the parallel directive in the provision calling for direct participation by the "designated representative of . . . the Indian tribe" may in practice substitute for the views of the Indian community, a most unfortunate result especially on large reservations.

Subsection (f)(2)(D) provides payments to those districts with approved plans whose applications have been submitted either by a school board with a majority of Indians or with the express written approval of the tribe or tribes involved. An important feature of this provision is its restriction on extensions of State school jurisdiction:

> "(D)(i) provides assurances that any extension of the geographical area or student population served by any school district of the local educational agency into areas where Indian students were previously served by a Bureau of Indian Affairs school shall be made only with the approval of the governing body of each Indian tribe which will be affected by such extensions."

This is an important reaffirmation of the policy embodied in 25 USC 231. States exercise school jurisdiction on Indian territories only by grace of Congress. 25 USC 231 permits such exercise but conditions it on tribal consent. The bill could be strengthened, however, by adding a sentence expressly stating that Indian tribes may withdraw their consent at a later date.

After several provisions dealing with tribal and HEW evaluation of public school district plans, the section moves on to what I foresee as a troublesome area: the negotiation of disputes between public school districts and Indian tribes or communities by the Commissioner of Education. The problems I see are these: (1) the time deadlines are arbitrary; (2) given the public school-orientation of HEW, the Commissioner's "negotiation" may be one-sided; (3) the provision allows the Commissioner to continue 874 funding "where the education of Indian students would be adversely affected" -- presumably always -- and thus undercut the Indian community's bargaining position. I would recommend changing this negotiation machanism from a mandatory power of the Commissioner to a form of mediation process. Perhaps, a federal agency, such as the Federal Mediation and Concilation Service (FMCS), could be used in this process. Experience and speed is the objective that is enhanced in this situation.

Subsection (f)(2)(H) contains the major innovation of the bill in terms of public education. It creates two options for Indian tribes of its 874 plan or 874 application. These options are the creation of either a BIA school to replace the public school, or the creation of an Indian-controlled contract school funded by the BIA under P.L. 93-638. Here, for the first time, is a Congressionally-sanctioned escape valve from unresponsive public schools. This would be the first Federal statute recognizing the need in certain circumstances to reverse the trend of sending Indian children to public schools. The only criticism I have of this provision stems from the time frame in which these options are supposed to be exercised. Subsection (J), which follows, allows, by my reading, a full two years and seven months to pass between the election by a tribe to exercise its options and the creation of the new school. In my exerpience, that much time would in many cases be a sufficient reason -- all by itself -- to convince a tribe not to pursue one of the options. Once the tribe has decided to defy the public schools, its alternatives must be ready almost immediately, even if those alternatives would not completely substitute for the public schools in terms of overall standards right away. Most contract schools that I have been associated with illustrate the point very well. Ramah, for example, commenced operations in a run-down, cramped facility. Likewise, Wind River. In both cases, however, and within a relatively short period, the schools acquired the wherewithal to erect or lease substantial, modern facilities. Had either community been told to wait two years before contracting, important momentum would have been lost and I doubt either project would have succeeded. When dealing with Indian education self-determination, it is important to realize that the gains to be made in acquiring real legal control of a program often far outweigh the temporary physical sacrifices that may have to be made. In saying this, it is important to point out, that the bill would not require any individual Indian child to attend the tribe's alternative school. Choice between public or tribal (or Federal) school would remain with individual families. And public school districts still enrolling Indian students would continue to be able to receive 874 monies on behalf of those students.

It is with regard to dividng up the 874 pie, however, that another question does arise. Subsection (f)(2)(J)(iv) would have the President submit a budget each year transferring 874 monies from HEW to Interior to take care of those Indian students transferring to new schools created by exercise of the options in subsection (H). Naturally, this transfer will be resisted by HEW and its contituency. I see no need for creating such competition. Why specify that monies will be transferred to Interior, when 874 monies are only paid out on the basis of actual Indian enrollments in public schools anyway? If the studnets do not enroll in public school, the 874 money they would bring to that school remains in the U. S. Treasury. Provided the BIA's Snyder Act budget includes contingency money for the option (H) transfers, there is no need, therefore, for any special 874 linkage between HEW and Interior.

Section 2 finishes with several technical provisions. These include a provision allowing States to include 874 monies in their calculation of how much State equalization aid local school districts should get. Another provision gives tribes the right, after specified periods of time, to send their children back to public schools if dissatisfied with subsection (H) options. In cases where no construction of an alternative facility was involved, the minimum period is five years; where construction occurs the period is 10 years. Here follows a sentence which reads:

> "Nothing in subsections (f) and (g), which are based on the special relationship between the United States and Indian Nations, shall be deemed to relieve any State of any duty with respect to citizens of that State."

In language like this, Congress is attempting to say that Indian education is a special creature, involving both State and Federal obligations. Of the definitions which conclude this section, only that for "Indian reservation" caught my eye. It ties the term to the definition used by the BIA in delivering Snyder Act services. To the extent this definition, because of Supreme Court cases, notably Ruiz v. Morton, enlarges the lands on which 874 is based, the definition may be of use in extending the bill's benefits to Indians not previously benefiting from 874.

The 1972 Indian Education Act added a new title (Title III) to P.L. 874. In one part the new title made public school districts eligible for formula grants for Indian education, provided they promise to use the money for special Indian education needs. A second part reserved a small percentage of the appropriations under Title III for non-LEAs operated by Indians, such as tribally-sponsored alternative schools or grassroots Indian-controlled private schools. These discretionary funds have been hotly competed for during the five year history of the Indian Education Act. In Section 6 of this new bill, some of the edge would be taken off that competition. The section provides that "any Indian tribe which operates any school for its children shall be deemed to be a local educational agency for purposes of section 303(a) of the (Indian Education Act of 1972)." Simply, by relabelling tribal schools as LEAs, this provision would make such schools eligible for the formula funds previously reserved exclusively for public schools. (To receive these formula funds, the tribal school would have to be operated in conformity with the standards established by the BIA under Section 3 or be a contract school under the 874 option contained in Section 2).

The only problem I see in the section is a drafting one. The phrase "any Indian tribe which operates any school for its children" could be confusing because very few tribes actually run schools. Most contract schools are not operated directly by tribes. They are run by non-profit Indian-controlled corporations sanctioned by tribes or by agencies of tribal government. The confusion would be cleared up by changing the key phrase to read: "any Indian controlled school serving Indian children and sanctioned by a tribal government." (Even with this change, it should be pointed out that some schools -- mostly urban -- operate without direct tribal sanction, and this language would still not serve them. A Congressional decision to leave them out would reflect a view that 874 monies should not be spread too thinly.)

Section 8. Bureau of Indian Affiars Education Functions

In a second key section of this bill, education functions are removed from the Area Offices and placed in the Office of Indian Education Programs (OIEP) under the direct control of the Director of OIEP). This provision accomplishes what the Bureau has so far been unable to do on its own, namely, centralize BIA education. Paradoxically, centralization of the bureaucracy's control of its own education programs is generally acknowledged to be a prerequisite for true Indian self-determination. This is because the decentralized system of policy making now in effect has been used against self-determination to the advantage of old-line BIA bureaucrats centered in the field offices. Most grassroots Indian education organizations are convinced that central control and direction of BIA education will usher in a more benign Bureau response to P.L. 93-638. The provision is quite far-reaching. All personnel in Area or Agency offices who deal solely with education are to come under the direct supervision and control of the Director, OIEP. Area Offices "shall not exercise any functions with respect to matters directly involving Indian education", except for technical assistance and coordination of education functions with other services of the Bureau. Although it would seem to be all-encompassing, the section just quoted does contain at least a theoretical loophole, found in the phrase, "matters directly involving Indian education." As it stands, the phrase is undefined and could lead to Bureau interpretive distortions. Overall, however, the section is most progressive.

Section 10. Allotment Formula

Formula funding, as it is called, has become controversial. Many Indian-controlled schools, and others, fear that formula funding will mean less money for them. Yet, viewed realistically, this concept is inevitable -- there are too many unexplained disparities in funding levels among all types of BIA schools, not just contract schools. Politics has undoubtedly contributed to these disparities, and pressures have been mounting to eliminate them. Most observers concede that in principle this effort is well-founded. Ultimately, no one benefits from gross fluctuations in levels of education service for Indian children. Section 10 is thus a corollary to Section 8's restructuring of the Bureau's education arm. The theme of this whole bill is uniformity: thus the directive to establish educational standards, to remove political maneuvering by Area Offices, and here to establish uniform levels of funding for Bureua education programs. The formula to be established must conform to the following: (1) it must take into account the number of Indian students served and the size of the school; (2) special cost factors -- such as isolation of the school, need for special staffing, transportation, or educational academic services -- be at least equivalent to those provided by public schools in the State in which the school is located. These parameters would seem adequate to protect those schools which truly operate under peculiarly difficult, and hence more costly, circumstances. It remains to be seen, however, how the formula when developed will affect any given school.

A noteworthy subpart of Section 10 would direct the Assistant Secreatry for Indain Affairs to establish a contingency fund for emergencies, unforeseen contingencies, or budget shortfalls. Such a discretionary contingency fund is urgently needed. Its absence over the years has caused extreme hardship for many Indian children and has also served to enhance the arbitrary powers of the Area Offices by making the BIA Central Office impotent to act in crises. It is my suggestion that this contingency fund be aligned in some way with tribal options under Section 2 of the bill, the escape valves for new BIA or tribally-controlled schools in situations where public schools prove unresponsive. The best way to carry out the alignment would be to make sure the contingency fund has enough money in it to meet these needs. One more point: The last sentence of the provision having to do with consulting the agency administrative superintendents before using the fund seems unnecessary. Emergenices, by their nature, must be dealt with quickly. Moreover, one should be able to expect the BIA's Education Director to be prudent enough to know when it is advisable to consult lower level personnel and when not to. This sentence should be dropped.

Section 12. Policy for Indian Control of Indian Education

This is a one-sentence section which reads:

> "It shall be the policy of the Bureau in carrying out the functions of the Bureau to foster Indian control of Indian affairs in all matters relating to education."

This is the kind of blunt policy statement long missing from Bureau education. It is a positive extension of the coments made by Congress in P.L. 93-638. There is only one major problem. The statement conflicts with Section 2's provision previously quoted dealing with segregated programs. Either the Federal government should promote Indian control of Indian education or it should not. Qualifying the principle means confusion. Indian education has long been plagued by a duality of conflicting policies -- assimilation through public schools on the one hand, and retention of Indian identity through Indian-run Federal schools on the other. It is time this schizophrenia were ended by a forthright policy of Indian control of Indian education.

Section 13. Edcuation Personnel

This provision gives local advisory school boards at BIA schools a measure of power over personnel decisions and gives the Bureau flexibility to hire educators outside the civil service system. It also exempts BIA schools from Indian preference rules in cases where local advisory school boards so authorize. One immediate question is why this exemption was not drafted to include Indian-controlled contract schools. Surely these schools should be in an equal position to benefit from this exemption, and they should be included in it. Thus, under this provision, superficial powers may be given to BIA-controlled bureaucrats, leaving ultimate power with the BIA and slowing the progress toward true self-determination.

Section 17. Recruitment of Indian Educators

Intended to promote the recruitment of qualified Indian educators, this section may be in conflict with the Indian preference exclusion, previously included in Section 13. Again, it would seem difficult to have it both ways: Either the aim is to train and hire Indian educators -- which no one is likely to dispute -- or it is to give local Indian communities the power to hire those they wish. Indian preference and Indian self-determination can at times be antagonistic, and Congress ought to grab hold of this potential antagonism and work out more definite and concrete mechanisms for achieving both ends.

In conclusion, although somewhat cluttered and internally inconsistent in parts, H.R. 9810 is very progressive. It bridges a number of gaps in the framework of Indian education and does so in a generally pro-Indian, pro-self-determination manner. The best part of this bill is its framers' willingness to tackle some of the toughest questions in the field, questions such as whether or not the Bureau's present structure serves Indian interest. Except in relatively minor respects, this bill should be supported enthusiastically by all those involved in the Indian education movement.

I would like to again express my appreciation and gratitude to this subcommittee for my invitation to address this most important bill. H.R. 9810 cannot answer all issues or needs of our people, but I feel the new approach used to draft and to take the pulse of our educational needs should be commended. It is by working together that we can begin to progress. I would like to extend an invitation to your committee to come and visit the Seneca Reservations and see, first hand, our situation. I'm sure we can all benefit from such a visit and experience.

Mr. **Blouin**. As I call your names—we are going to do this in two sections—we would appreciate it if you would come up to the witness table.

The first panel is comprised of one person, Mr. Alfred Pemberton, representing the Minnesota Chippewa and a delegation whose names I don't have. If you would come up front, Mr. Pemberton, maybe you could give us the names of your delegation for the reporter.

Before you folks start, I would like to welcome you on behalf of my colleague from Minnesota, Mr. Quie, who is at this point tied up in a meeting with the minority leadership. He is going to try to get here before the testimony is finished. If not, he wanted to express his appreciation for your presence here today.

Mr. Pemberton. If you would proceed. We have your testimony, so you can start with it, and then move to the other members of the delegation who may have something to say.

For the sake of the record and us, please introduce yourselves as you go. Thank you.

[The prepared testimony of Alfred "Tig" Pemberton follows:]

TESTIMONY PRESENTED BY ART GAHBOW, ALFRED "TIG" PEMBERTON, AND RICHARD W. TANNER

Mr. Chairman, members of the Committee:

The Education Committee and staff of the Minnesota Chippewa Tribe have reviewed H.R. 9810, but, before we go into the specifics of the bill itself, we want to thank members of the House Committee for taking the initiative of responding to the voice of Indian people by finding a way to meeting the basic educational needs of Indian children as proposed in H.R. 9810, the Indian Basic Education Act.

The Minnesota Chippewa Tribe believes that a basic education is the way to self-determination and self-sufficiency as a government and as a people, education of our children and people is the number one priority for our tribal government.

In reviewing H.R. 9810 a number of basic questions arise, the first is that the bill violates tribal sovernity by taking away their power and responsibilities particularily in the area of contract schools and will hinder the ability of tribes to contract for BIA schools. The bill would also allow the Commissioner to adopt an educational plan if there is a conflict between the school board and tribal governing body. A conflict most assuredly will arise in Minnesota, since the "plan of basic education" must be developed for the "majority of students". The way the bill is written the Commissioner can override the tribal governing body and this is contrary to self-determination and tribal sovernity.

We are concerned about the treaty obligations of the U.S. Government and we believe H.R. 9810 violates certain treaty rights as they apply to education. We believe that H.R. 9810 will take away the education trust responsibility from the BIA and transfer them to H.E.W. without the consent of tribal groups.

H.R. 9810 would drastically alter the intent of P.L. 93-638 by taking all BIA education programs away from Indian tribes by placing them in the hands of the Director of Education.

In regard to the specific sections of the Act, the Minnesota Chippewa Tribe has reviewed H.R. 9810 a bill to amend P.L. 81-874, to provide for the basic education of Indian children, to provide improvements in the delivery of other educational services for Indians, and for other purposes, we agree with the intent of the Act, but we are concerned with the meaning and effect of some parts, and there are some parts we oppose because of the negative effect on schools and programs in Minnesota. Our specific comments and recommendations are:

Section 2 (a) (1) (f) entitlement for Indian children; we agree with the concept that some school districts need additional funds to provide a quality education for Indian students. We are opposed to (f) (j) (v) (g) the distribution formula because it has the effect of reducing the amount received under the state equalization formula. The school districts lose funds in an amount equal to the difference between what they presently receive and the "increase" received under this Act, and under Minnesota equalization formula the increase in 874 entitlement would be negated.

We, and the school boards, as well as, the Indian community need funds which cover the difference between the receipts from the State and local sources and the actual cost of providing educational services as perceived by the Indian community and students needs. We strongly recommend that (f) (1) be changed to read, "(f) (1) In addition to that portion of entitlement authorized by Sections 3 (a) (b) which is . . ."

The Tribes would like to see a clause added to paragraph (b) (J) (v) (g) which in effect states that an exception will be made for all Indian school districts, or contract schools presently existing or established under (f) (H) and/or attendance areas within school districts having 65% or more Indian students, and such entitlement attributable to the Indian school district or attendance area shall be allocated to the attendance area or individual school building.

We recognize that this will increase the funding to some school, and we emphatically endorse such a concept since the educational, economic levels of Indian people are much below state and national averages. Additional funds would provide needed services, programs and curriculum for schools, Indian students and parents. We believe this to be justifible, because we are always playing a catch-up game.

Sub-section (f) (2) (B) regarding seperate or segregated is contrary to the self-determination of Indian tribes and communities who desire to establish Indian controlled schools because of the failure and unwillingness of public schools to establish programs and services beneficial to Indian students.

We believe funds should be made available for the establishment or programs, curriculum and schools for the benefit of Indian students and that such programs, curriculum and schools can be established with out the intent of invidious discrimination against Indians as long as the programs, curriculum, and schools comply with Section (2) (f) (2) (c) (i) - (iv) as amended in consideration of our comments. The reason for this proposed change is that Indian students who have suffered from discrimination and of lack of substantial programs and services can best be prepared for the adult world by an education that is more reflective of their own cultural and linguistics background and norms than that provided in the regular school system. Protection against the amendment being used as a subterfuge for discrimination is provided for by requiring showing the need, parental consent and participation in planning, operation and evaluation and guarantee by the school district itself that the program lacks discriminatory intent.

Sub-section (2) (1) (C) (i) - (iii) should be amended to include language much stronger than "active solication" of the views of the Indian community. We recommend the language in 25 CFR 273.15 to 273.17 be used in establishing the duties and responsibilities of the Indian parents in the affected community.

Sub-section (2) (1) (f) (E) should include language to insure the involvement of tribes, national and regional Indian organizations in consultation in the development of regulations.

Section 2 (f) (2) (J) (i) the time limit for a contract must be changed to be one year after the six-month notice period with the Bureau. A section should be added stating, "There are hereby authorized to be appropriated such sums as are be necessary to carry out sub-paragraph (H) (i) (ii).

Sub-section (J) (iv) should include the above statement authorizing appropriations.

Sub-section (J) (i) (v) (g) should not require school districts to subtract the entitlement received under (f) (1) for the reasons listed in the seventh paragraph of this testimony.

Sub-section (f) (2) (k) (5) must be amended to include language to include "programs specifically designed to meet the special educational needs of Indian children, including programs, service, curriculum planned by the Indian parents."

It is our opinion that the problems would never be solved if the funds and programs were planned for the "majority of students", and the best method of attacking the problems is to plan programs for the special and unmet needs of Indian students.

Section 3 (a) studies are not, in the opinion of the Tribe necessary since the existing studies and the many models available are more than adequate to develop standards. The other possibility would be to authorize appropriated funds to conduct a needs assessment using as a model the recent Phoenix Indian School completed. This model will consider all the qualifications in Section 3 (b) (c). In Section 3 (c), the implementation of the standard developed could be in less than one year.

Sub-section 3 (a) does not take into consideration the multi-tribal make-up of the student body in the Bureau schools. For example, Intermountain has approximately 40 tribal groups enrolled. Very few of the students are from Utah, a large member of the students are Navaho, Crow, Apache, and Papago. A few of the students are Chippewa. Such standards developed must take into consideration their cultural needs, as well as, the other tribal groups.

The standards to be developed as mentioned in Sub-section 3 (a) that the studies shall be directed towards "equal educational opportunity" is not in our opinion the proper solution or direction for Indian education problems. In the Bureau schools, as in public schools, the educational level, to a certain extent is worse than public schools. To provide Indian students with "equal" educational opportunities is in itself unequal. The services provided to Bureau Indian students and Indian students in public school must be more than equal than those provided to public school students.

In sub-section 3 (e) the head of the BIA is not clear, as to whether it is the Secretary, Assistant Secretary of the Director of Education.

Sub-section 3 (e) (b) implies that if the standards developed are higher than the state minimum standards, the "head" can lower the Bureau contract school standards to state standards. This concept is contrary to self-determination and will lower the quality of education for some schools.

Sub-section 3 (f) is endorsed by the Tribe. Especially for contract schools. Since the funds available to them is not adequate and the funds for planning is extremely limited.

The defination of "contract schools" is not clearly defined here and in other sections where mentioned. The defination must include "previously private schools."

The concept in sub-section 6 to consider tribally and Indian controlled schools as LEA;s is endorsed by the Tribe. To consider them as LEA's would make them eligible to receive Title IV, Indian Education Act funds to provide supplementary receives to Indian students.

Section 7 must be amended to state that, "The Assistant Secretary shall take the following Actions":

1. Consult with Indian tribes and national and regional Indian organizations and consider their views in preparing the regulations.

2. Publish the proposed regulations in the Federal Register as proposed rule-making to provide adequate notice to, and receive comments from, are interested parties.

3. After substantial consideration of all comments received, publish the regulations in the Federal Register in final form not less than 30 days before the date are made effective.

All parts in this Act (P.L. 9810) which require regulations should state:

(a) Annually consult wiht Indian tribes and national and regional Indian organization about the need for revision or amendments, and consider their views in preparing the revisions or amendments.

(b) Nothing in this Section shall preclude Indian tribes and national and regional Indian organization from initiating request for revisions or amendments (for any regulations under this Act).

The centralization of functions as stated in Section 8 (a) into the D.C. office is concept we endorse, but we are concerned about a number of issues. We are concerned about the centralization or power with possibly one individual. We also view the move as taking away power and authority from tribes, and in some respect conflicts with the intent of P.L. 93-638 self-determination and contracting provisions of Title I.

The reorganization in Section 8 (b) should not be carried out until such times as tribes have commented. The recommendations and comments by tribal groups will insure that the Office of Education responds organizationally and versally to the needs of Indian people. It is our understanding that the BIA and the White House is now conducting hearings on its reorganization plans. It is our belief that no changes be made in the BIA and Education Division until Indian people have their input.

We believe that "authority" and "ultimate authority" of the "Assistant Secretary must be clearly defined, as well as, the daily direction, supervision, and expenditure of Federal funds must be clearly defined."

In the past the Director and/or Commissioner have taken certain programs off the Band Analysis process and in essence has taken the programs out of the control of Indian tribes. We do not want to see this happen again.

Members of the Advisory Study Group are also aware of the problems surrounding the distribution of JOM funds when the Office of Indian Education decided to take over the functions and daily directions, supervision, and expenditure of JOM funds. This we do not want to happen again.

The functions in Sub-section 8 (c) (1) or monitoring and evaluation are responsibilities of contracting tribes and in many cases the Area Office and Agencies do not have the capacity or experience to do so. The Minnesota Chipepwa Tribe owuld view such activities with extreme caution and an attempt by the BIA to further control tribal programs. Further more, the Tribe, with its staff and consultants can monitor and evaluate their own programs.

Sub-section 9 should include provisions whereby the Assistant Secretary consults with tribes and national and regional Indian organization in the development of rules and regulations.

We believe this to be imperative since what ever regulations are developed and made effective will have a lasting and permanent effect on all tribal contracting procedures and the functions and operation of tribal education programs.

Tribal involvement in the development of policies and procedures is one way to insure that the BIA program fit the needs of tribes and member as perceived by tribes and members.

Sub-section 10 formula must be revised to include standards not less than the highest maintained by comparable school districts and not the minimum as provided for in the original Johnson-O'Malley Act in 1934.

Sub-section 10 (b) should not be intended to decrease the amount of funds received by a contract school if those funds are more than the average in a public school.

The slush fund in Sub-section 10 (c) is not necessary and in some cases harmful to tribes; many programs for tribes can be significantly reduced at the discretion of the Director.

Today this happens in respect to scholarship funds whereby the Director keeps approximatley $9,000,000.00 in the D.C. office for use on "special" projects. The reduction in scholarship funds greatly reduced the effectiveness of the Minnesota Chippewa Tribe scholarship program in terms of the number of students served and the amount of grants received. This year we are unable to serve 75 students and we will be short $283,830.00 this year. The Minnesota Chippewa Tribe in the past has opposed the "special" project such as the school administration project because it takes a large amount of funds away from tribal contractors and tribal groups do not receive and benefit or services from the students who graduated from the project.

The consultants process in Section 10 (c) is not adequate to serve the needs of the Minnesota Chippewa Tribe since the Minnesota Agency does not have a superintendent for education.

If the "fund" is established measures must be taken to insure the voice of Minnesota Chippewa Tribe in the process by designating the Superintendents or other agency personnell in the consultation process.

In sub-section 11 the establishment of regulations must be the same process we previously mentioned.

The concept of direct funding mentioned in Sub-section 11 is supported by the tribe. Hopefully this intent shall place more authority in the hands of local school board of Bureau and contract schools.

We recommend that the forward funding concept time line be increased to two years and no less than one year. This will permit the schools to do more advanced planning and the signing of contract with school personnell.

Sub-section 3 (f) appropriation in some cases may conflict with sub-section 10 (g) formula especially if the proposed criteria as written and the formula is adopted. The costs necessary in Sub-section 3 (f) may be higher than the proposed formula in Section 10 (a) and Section 10 (b) has the potential for reducing the necessary funds. Such conflict and contradictions must be removed from the appropriate sections.

The education policies, procedures, and practices mentioned in Section 15 must be submitted to tribes and national and regional Indian organization for comment in a manner out line in paragraph 28 of this testimoney. We believe this to be of utmost importance since the policies and procedures will serve as a foundation for further BIA educational programs.

Sub-section 16 uniform procedure and practices should also follow the same format as referred to in the previous paragraphs.

The recruitment of more Indians into the BIA is a policy endorsed by the Minnesota Chippewa Tribe as referred to in Section 17.

Annual Report as required in Section 18 should also contain the recommendation and suggestion or tribal groups.

The authorization of funds under Section 21 should not come our of the Snyder Act because such move would reduce programs by $1,000,000.00.

We recommend the funds come out of new funds expressively for the purpose of the studies.

In closing the Minnesota Chippewa Tribe support the concept of financial assistance for public schools enrolling Indian students and Indian controlled schools. We could support Section 2 to 7 if the necessary changes are made. We do not believe Section 8 to 22 should be a part of this Act, and we strongly recommend that these sections be deleted from the final version.

Members of the Committee, I thank you for your time and concern.

STATEMENT OF ALFRED "TIG" PEMBERTON, CHAIRMAN, MINNESOTA TRIBAL EDUCATION COMMITTEE; ACCOMPANIED BY KENT TUPPER, LEGAL COUNSEL; LARRY KITTO, DEPUTY DIRECTOR, MINNESOTA CHIPPEWA TRIBE; AND RICHARD TANNER, COORDINATOR, JOHNSON-O'MALLEY PROGRAM

Mr. PEMBERTON. Mr. Chairman, my name is Al Pemberton. I am the chairman of the Minnesota Tribal Education Committee.

With me I have the delegation from the Minnesota Chippewa Tribe. We have with us our legal counsel, Mr. Kent Tupper, and Mr. Larry Kitto, who is the legislative director; and I also have Richard Tanner, who is our coordinator.

Mr. Chairman and members of the committee, the Education Committee and staff of the Minnesota Chippewa Tribe have reviewed H.R. 9810 but before we go into the specifics of the bill itself, we want to thank members of the House committee for taking the initiative of responding to the voice of Indian people by finding a way of meeting the basic educational needs of Indian children as proposed in H.R. 9810, the Indian Basic Education Act.

The Minnesota Chippewa Tribe believes that a basic education is the way to self-determination and self-sufficiency as a government and as a people; education of our children and people is the no. 1 priority for our tribal government.

In reviewing H.R. 9810, a number of basic questions arise; the first is that the bill violates tribal sovereignty by taking away their power and responsibilities, particularly in the area of contract schools and will hinder the ability of tribes to contract for BIA schools. The bill would also allow the Commissioner to adopt an educational plan if there is a conflict between the school board and the tribal governing body. A conflict most assuredly will arise in Minnesota, since the plan of basic education must be developed for the majority of students. The way the bill is written, the Commissioner can override the tribal governing body and this is contrary to self-determination and tribal sovereignty.

We are concerned about the treaty obligations of the U.S. Government and we believe that H.R. 9810 violates certain treaty rights as they apply to education. We believe that H.R. 9810 will take away the education trust responsibilities from the BIA and transfer them to HEW without the consent of tribal groups.

H.R. 9810 would drastically alter the intent of Public Law 93-638 by taking all BIA education programs away from Indian tribes, by placing them in the hands of the Director of Education.

In regard to the specific sections of the Act, the Minnesota Chippewa Tribe has reviewed H.R. 9810, a bill to amend Public Law 81-874, to provide for the basic education of Indian children, to provide improvements in the delivery of other educational services for Indians, and for other purposes, and we agree with the intent of the Act but we are concerned with the meaning and the effect of some parts, and there are some parts we oppose because of the negative effect on schools and programs in Minnesota.

Our specific comments and recommendations are:

Section 2 (a) (1), (f), entitlement for Indian children, we agree with the concept that some school districts need additional funds to provide a quality education for Indian students. We are opposed to (f), (j), (v), and (g), the distribution formula, because it has the effect of reducing the amount received under the state equalization formula. The school districts lose funds in an amount equal to the difference between what they presently receive and the increase received under this act, and under Minnesota equalization formula the increase in 874 entitlement would be negated.

We and the school boards, as well as the Indian community, need funds which cover the difference between the receipts from the State and local sources and the actual cost of providing educational services as perceived by the Indian community and students' needs.

We strongly recommend that (f)(1) be changed to read: "(f)(1) In addition to that portion of entitlement authorized by sections 3 (a) and (b), which is * * *"

The tribes would like to see a clause added to paragraphs (b)(J) (v), (g) which, in effect, states that an exception will be made for all Indian school districts or contracts schools presently existing or established under (f)(H) and/or attendance areas within school districts having 65 percent or more Indian students, and such entitlement attributable to the Indian school district or attendance area shall be allocated to the attendance area or individual school building.

We recognize that this will increase the funding to some schools, and we emphatically endorse such a concept since the educational/economic levels of Indian people are much below State and national averages. Additional funds would provide needed services, programs and curriculum for schools, Indian students and parents. We believe this to be justifiable because we are always playing a catch-up game.

Subsection (f)(2)(B) regarding separate or segregated is contrary to the self-determination of Indian tribes and communities who desire to establish Indian controlled schools, to establish programs and services beneficial to Indian students.

We believe funds should be made available for the establishment of programs, curriculum and schools for the benefit of Indian students and that such programs, curriculum and schools can be established without the intent of invidious discrimination against Indians as long as the programs, curriculum and schools comply with sections (2)(f), (2)(c), (i) through (iv), as amended, in consideration of our comments.

The reason for this proposed change is that Indian students who have suffered from discrimination and lack of substantial programs and services can best be prepared for the adult world by an education that is more reflective of their own cultural and linguistics backgrounds and norms than that provided in the regular school system. Protection against the amendment being used as a subterfuge for discrimination is provided for by requiring parental consent and participation in planning, operation and evaluation and a guarantee by the school district itself that the program lacks discriminatory intent.

Subsection (2)(C), (i) through (iii) should be amended to include language much stronger than "active solicitation" of the views of the Indian community. We recommend the language in 25 CFR 273.15 to 273.17 be used in establishing the duties and responsibilities of the Indian parents in the affected community.

Subsections (2), (1)(f)(E) should include language to insure the involvement of tribes, national and regional Indian organizations in consultation in the development of regulations.

Section 2(f)(2)(J)(i), the time limit for a contract, must be changed to be one year after the 6-month notice period with the Bureau. A section should be added stating: "There are hereby authorized to be appropriated such sums as may be necessary to carry out subparagraph (H) (i) through (ii).

Subsection (J)(iv) should include the above statement authorizing appropriations.

Subsection (J)(i)(v)(g) should not require school districts to subtract the entitlement received under (f)(1) for the reasons listed in the seventh paragraph of this testimony.

Subsections (f)(2), (k)(5) must be amended to include language to include "programs specifically designed to meet the special educational needs of Indian children, including programs, service, curriculum planned by the Indian parents."

It is our opinion that the problems would never be solved if the funds and programs were planned for the "majority of students" and the best method of attacking the problems is to plan programs for the special and unmet needs of Indian students.

Section 3(a) studies are not, in the opinion of the tribe, necessary, since the existing studies and the many models available are more than adequate to develop standards. The other possibility would be to authorize appropriated funds to conduct a needs assessment, using as a model the recent assessment the Phoenix Indian School completed. This model will consider all the qualifications in Sections 3 (b), (c). In Section 3(c), the implementation of the standard developed could be in less than 1 year.

Subsection 3(a) does not take into consideration the multitribal makeup of the student body in the Bureau schools. For example, Intermountain has approximately 40 tribal groups enrolled. Very few of the students are from Utah; a large number of the students are Navajo, Crow, Apache, and Papago. A few of the students are Chippewa. Such standards developed must take into consideration their cultural needs as well as the other tribal groups.

The standards to be developed as mentioned in subsection 3(a), that the studies shall be directed toward "equal educational opportunity" is not, in our opinion, the proper solution or direction for Indian education problems. In the Bureau schools, as in public schools, the educational level to a certain extent is worse than in public schools. To provide Indian students with equal educational opportunities is in itself unequal. The services provided to Bureau Indian students and Indian students in public school must be more than equal than those provided to public school students.

In Subsection 3(e) the head of the BIA is not clear: is it the Secretary, Assistant Secretary or the Director of Education.

Subsection 3(e)(B) implies that if the standards developed are higher than the state minimum standards, the "head" can lower the Bureau contract school standards to State standards. This concept is contrary to self-determination and will lower the quality of education for some schools.

Subsection 3(f) is endorsed by the tribe, especially for contract schools, since the funds to them are not adequate and the funds for planning are extremely limited.

The definition of "contract schools" is not clearly defined here and in other sections, where mentioned. The definition must include "previously private schools".

The concept in subsection 6 to consider tribally and Indian-controlled schools as LEA's is endorsed by the tribe. To consider them as LEA's would make them eligible to receive title IV Indian Education Act funds to provide supplementary services to Indian students.

Section 7 must be amended to state that:

> The Assistant Secretary shall take the following actions:
>
> 1. Consult with Indian tribes and national and regional Indian organizations and consider their views in preparing the regulations.
> 2. Publish the proposed regulations in the Federal Register as proposed rule-making to provide adequate notice to, and to receive comments from, all interested parties.
> 3. After substantial consideration of all comments received, publish the regulations in the Federal Register in final form not less than 30 days before the date they are to be made effective.

All parts in this act—H.R. 9810—which require regulations should state:

> (a) Annually consult with Indian tribes and national and regional Indian organizations about the need for revision or amendment and consider their views in preparing the revisions or amendments.
>
> (b) Nothin in this Section shall preclude Indian tribes and national and regional Indian organizations from initiating requests for revisions or amendments of any regulations under this Act.

The centralization of functions as stated in section 8(a) into the D.C. office is a concept we endorse but we are concerned about a number of issues. We are concerned about the centralization of power in, possibly, one individual. We also view the move as taking away power and authority from tribes, and in some respects, it conflicts with the intent of Public Law 93-638 self-determination and contracting provisions of title I.

The reorganization in section 8(b) should not be carried out until such time as tribes have commented. The recommendations and comments by tribal groups will insure that the Office of Education responds organizationally and verbally to the needs of Indian people. It is our understanding that the BIA and the White House are now conducting hearings on its reorganization plans. It is our belief that no changes be made in the BIA and Education Division until Indian people have made their input.

We believe that "authority" and "ultimate authority" of the Assistant Secretary must be clearly defined, as well as "the daily direction, supervision and expenditures of federal funds" must be clearly defined.

In the past the Director and/or the Commissioner have taken certain programs off the band analysis process and in essence have taken the programs out of the control of Indian tribes. We do not want to see this happen again.

Members of the Advisory Study Group are also aware of the problems surrounding the distribution of JOM funds when the Office of Indian Education decided to take over the functions and daily direction, supervision and expenditure of JOM funds. This we do not want to happen again.

The functions in subsection 8(c)(1) or monitoring and evaluation are responsibilities of contracting tribes and in many cases the area offices and agencies do not have the capacity or experience to do so. The Minnesota Chippewa Tribe would view such activities with extreme caution and as an attempt by the BIA to further control tribal programs. Furthermore, the Tribe, with its staff and consultants, can monitor and evaluate its own programs.

Subsection 9 should include provisions whereby the Assistant Secretary consults with tribes and national and regional Indian organizations in the development of rules and regulations. We believe this to be imperative, since whatever regulations are developed and made effective will have a lasting and permanent effect on all tribal contracting procedures and the functions and operation of tribal educational programs.

Tribal involvement in the development of policies and procedures is one way to insure that the BIA programs fit the needs of tribes and members as perceived by tribes and members.

Subsection 10 formula must be revised to include standards not less than the highest maintained by comparable school districts and not the minimum as provided for in the original Johnson-O'Malley Act in 1934.

Subsection 10(b) should not be intended to decrease the amount of funds received by a contract school, if those funds are more than the average in a public school.

The slush fund in subsection 10(c) is not necessary and in some cases is harmful to tribes. Many programs for tribes can be significantly reduced at the discretion of the Director.

Today this happens in respect to scholarship funds, whereby the Director keeps approximately $9 million in the D.C. office for use on special projects. The reduction in scholarship funds greatly reduced the effectiveness of the Minnesota Chippewa Tribe scholarship program in terms of the number of students served and the amount of grants received.

This year we are unable to serve 75 students and we will be short $283,830 this year. The Minnesota Chippewa Tribe in the past has opposed the special project such as the school administration project because it takes a large amount of funds away from tribal contractors and tribal groups do not receive any benefit or services from the students who graduate from the project.

The consultant process in section 10(c) is not adequate to serve the needs of the Minnesota Chippewa Tribe, since the Minnesota agency does not have a superintendent for education.

If the fund is established, measures must be taken to insure the voice of Minnesota Chippewa Tribe in the process by designating the superintendents or other agency personnel in the consultation process.

In subsection 11 the establishment of regulations must be the same process we previously mentioned.

The concept of direct funding mentioned in subsection 11 is supported by the tribe. Hopefully, its intent shall place more authority in the hands of local school boards of Bureau and contract schools.

We recommend that the forward funding concept time-line be increased to 2 years and no less than 1 year. This will permit the schools to do more advanced planning and the signing of contracts with school personnel.

Subsection 3(f) appropriation in some cases may conflict with subsection 10(g) formula, especially if the proposed criteria as written and the formula are adopted. The cost necessary in subsection 3(f) may be higher than the proposed formula in section 10(a), and section 10(b) has the potential for reducing the necessary funds. Such conflicts and contradictions must be removed from the appropriate sections.

The educational policies, procedures and practices mentioned in section 15 must be submitted to tribes and national and regional Indian organizations for comment in a manner outlined in paragraph 28 of this testimony. We believe this to be of utmost importance, since the policies and procedures will serve as a foundation for further BIA educational programs.

Subsection 16, "Uniform Procedure and Practices", should also follow the same format as referred to in the previous paragraphs.

The recruitment of more Indians into the BIA is a policy endorsed by the Minnesota Chippewa Tribe as referred to in section 17.

The annual report, as required in section 18, should also contain the recommendations and suggestions of tribal groups.

The authorization of funds under section 21 should not come out of the Snyder Act because such move would reduce programs by $1 million.

We recommend the funds come out of new funds expressly for the purpose of the studies.

In closing, the Minnesota Chippewa Tribe supports the concept of financial assistance for public schools enrolling Indian students and Indian-controlled schools. We could support sections 3 to 7 if the necessary changes are made.

We do not believe sections 8 to 22 should be a part of this act and we strongly recommend that these sections be deleted from the final version.

That completes the testimony at this time.

Mr. Blouin. Do you have prepared comments from the others of the delegation?

Mr. Pemberton. They are here if there are questions. They will be here to answer questions.

Mr. Blouin. All right. Let me start by responding to some of the things you have mentioned.

We first begin with a couple of questions: Is your relationship in Minnesota with the BIA a fairly good one, in terms of the services and the response you have from them for the problems that you face in education?

Mr. KITTO. Mr. Chairman, I will respond.

Larry Kitto—I am from the Chippewa Tribe.

I don't think our relationship, that the Minnesota Chippewas have with the Bureau, is any different than any others, but I think, with the new administration, some new ideas and some new plans that are coming about in the administration and the philosophies and the ideas, that the Indian tribes are going to make the Bureau, for the first time, accountable to the tribes. As you know, we are being ruled and regulated to death. The tribes' answer to 638 is to get the services and the programs out to the people where they belong, and that is what we want to see happen.

We don't need anymore stacks of paper; we need services to the people.

Mr. BLOUIN. Are they still coming at you with stacks of paper?

Mr. KITTO. You know how bureaucracies are.

Mr. BLOUIN. That has not changed?

Mr. KITTO. It is getting worse.

Mr. BLOUIN. Even with the change in the administration? Even with the stated philosophy that exists there, the problem still exists?

Mr. KITTO. Yes. However, with the new administration, with Mr. Gerard and his new colleagues, they are just now getting the opportunity to get into the act.

Mr. BLOUIN. Have you been involved, as a tribe, in the current reorganization effort in the BIA?

Mr. KITTO. Yes, we have, Mr. Chairman. As a matter of fact, yesterday Mr. Gobel, the president of the tribe, testified before one of the subcommittees charged with the responsibility of making recommendations for the reorganization of the Bureau of Indian Affairs.

Mr. BLOUIN. Is this unique? I mean, is this the first time in recent years that the BIA has actually solicited your views or opinions on reorganization?

Mr. KITTO. Yes, it is. I have worked with the Minnesota Chippewa Tribe for 3 years and that is the first time.

Mr. BLOUIN. Let's say in the last 10 years, how many times have they asked for your opinion on anything dealing with restructuring or reorganization?

Mr. TANNER. I think this is the first time they ever asked.

Mr. BLOUIN. In your opinion, it is the first time they have come to you in at least a number of years?

Mr. KITTO. I think the tribe's aim is self-determination and they are not going to wait for the Bureau to ask; they are going to offer the opinions anyway.

Mr. BLOUIN. Good. I think that is essential.

Let me carry this a step or two further. Let's assume that miracles happen and the BIA actually drafts reorganization approaches that are in line with what the majority of Indian tribes in the country want. That has not happened since God invented lightning, but let's assume it did happen. Would you be opposed to that kind of change being written into law, so that in case Forrest Gerard leaves a spot that is obviously a rotating position, the next person down the pike won't take it away from you?

Mr. Kitto. I will answer that, Mr. Chairman. I guess yesterday when the president of the tribe gave testimony on Public Law 93-638 at the task force hearing, he indicated very strongly that he felt that Indian affairs should be maintained in Interior. As tribes develop expertise and professionalism necessary to administer programs locally, they should administer them—it is a long ways between here and back there on the Leech Lake Reservation. They want some assurance that when they get things set, you know, and get things rolling, get things working and going in the right direction, that somebody does not come along and change it back around the other way. They need those changes.

Mr. Blouin. The only assurance, the only protection, for that is to codify the regulated changes. That is, if they are to the mutual satisfaction of the tribes generally. So you would agree with that?

Mr. Kitto. Sure.

Mr. Blouin. Let me take that one step further.

If primarily sections 8 through 22—which deal with policy formulation and restructuring, if those sections are tailored to meet the stated needs of the tribes of the country and if they can be modified to the point where they are acceptable or in line with task force recommendations and are still in line with tribal opinion, would you have any objection to them being included in the bill at that point? In other words, simultaneously?

Mr. Tanner. I don't think there would be any objection.

Mr. Blouin. Okay. Just for the sake of the record, those sections were drafted with probably more Indian input in the field as well as Washington, hearing input, than probably any piece of Indian legislation to come down in decades around here.

I know I personally have been out to dozens of Indian reservations in the last year and I know the staff has been out to even more than that, just trying to do what you suggested has to be done in your testimony. We have to get Indian input and it is time that this legislation be tailored to meet what the Indians perceive their needs to be and not what Washington lobbyists perceive it to be, or even what the Congress perceives it to be.

I get the impression that you have the impression that this thing was written in a vacuum to a great extent?

Mr. Tanner. No, not really. He talks about how it was drafted but there are some parts which are just not clearly defined. You know, for example, what is the ultimate authority of the Commissioner? So it is really not clearly defined.

Let's say, for example, right now the way it works, that the Commissioner is summoned to the Bureau, has the power to take a program off a band analysis and in essence take off our heads. If that is going to be the ultimate authority, then the Commissioner or anybody else could take a program off.

Mr. Blouin. I agree with that completely. That is obviously not the intent of the legislation.

Mr. TANNER. So most of the things we are concerned about——

Mr. BLOUIN. We are going to have to clarify some of that language. But I still have some questions on how you see the bill. To give you a couple of examples, let me go back to the beginning.

Al, on the first page of your testimony, the first sentence in the third paragraph says: "by taking away their power and responsibilities, particularly in the area of contract schools." I am lost. Where did you find that? If it is in the bill, I want it out, because that is just the opposite of what the clear intent of at least the authors of the bill is.

Mr. TANNER. Say, for example, under this bill, that if a school is covered under the provision of—or is like another provision, that that school could not be segregated or operated primarily for the—it was really not that clear.

Mr. BLOUIN. When you get back, if you have some time, I would really appreciate it if you would mark the section. It is sufficient to go to the top of the page; it is sufficient for us, but if you could sit down and get together with the staff and talk about the specific page and line that is the problem, we can change it. If the change is not worse than the problem that is there.

The problem that you raise on the top of page 2 is a real one in regard to the State evaluation formula. Our basic problem is one of constitutionality. We cannot direct a State on how they shall fund their programs, but a couple of suggestions have come up. The one that I think may have the most equity is to have a basic entitlement. In other words, say that the funding shall go out on this average per pupil expenditure but in no instance shall any school with Indian population or any resultant Indian-controlled school receive less than so many dollars per pupil out of the program, over and above the other acts that fund you from other sources.

I think in one State's instance it was almost every nickel of it. In New Mexico they take just about everything that the formula would put in. So one option would be to guarantee up to $400, or $500, or $300, or whatever we end up on, in addition to the money now there.

In any event, let me assure you what we intend to do is to play with the different formula approaches, plug them into a computer if we have to, and see what happens to each school specifically in the country affected by the legislation, to make sure that they get so many dollars and then try to draft the formula to meet this intent.

You know we cannot correct inequitable State funding formulas where they exist, such as the New Mexico problem, but we can try to compensate for it, and we are going to do our darnedest to pull that off.

Your comment about separate or segregated programs—if I understand you, you are suggesting that the language of the bill would preempt an Indian-controlled contract school from being exclusively for Indians?

Mr. TANNER. Correct.

Mr. BLOUIN. Again, that is totally contrary to what our intent is and, again, it is something we would like you to work out with the staff.

Mr. TANNER. In the instance of 3(f), our school districts—it says that the educational plan will be made for the majority of students and in the instance of 3(f) those school districts, it will be made for the majority of the non-Indian.

Mr. BLOUIN. I think that refers to the public school.

We had an Indian-controlled public school board association in here testifying and saying that they feel that there was some legitimacy to that problem. I thought that where you had a public school with an elective public school board the majority of whom were Indians, that that would serve as the parent committee in that instance. Now is that the provision you are taking exception to?

Mr. TANNER. Yes, because in Minnesota we have three school districts which are within those three school districts which are the schools, Cook County Public Schools, and our basic support money goes to the school at Grand Forks, all of it; none of it goes entirely to Cook County.

Mr. BLOUIN. Do you control that school board? Is the majority of that school board Indian?

Mr. TANNER. No.

Mr. BLOUIN. So they would not qualify in this instance, because I think the bill requires that a majority of the school board be Indian.

Mr. TANNER. But the Indian population in Grand Portage controls the school.

Mr. BLOUIN. You are saying this would take away that control——

Mr. TANNER. Yes.

Mr. BLOUIN [continuing]. Because it would pass it to the school board?

Mr. TANNER. Yes.

Mr. BLOUIN. I see.

Mr. TANNER. The educational benefits then within that school district would be drawn to the majority of students who would be non-Indian in the school district.

Mr. BLOUIN. Yes.

Counsel tells me that that might be able to be worked out, even in that instance. He said there are a couple of other areas like that in the country and we will do our darnedest to straighten that out, too.

On page 4 you refer to the "head" in quotes. That is the Assistant Secretary of Interior for Indian Affairs. That is the BIA that we referred to in that instance, not HEW. This bill does not transfer anything over to HEW. There are a few perhaps that think that that is the purpose of it, but it just plain does not do that. To the contrary, what it is trying to do is to give Indians control over the basic funds, more than just input but control in the sense that if you don't like the program you don't sign off and any moneys don't flow. It is just that simple.

Mr. KITTO. Mr. Chairman, if I might respond to that. The Minnesota Chippewa Tribe would be just unilaterally opposed to taking education out of the Bureau at this time. I think that we have experienced that in the past with taking the Public Health Service out of the Bureau of Indian Affairs and that record speaks for itself.

Mr. BLOUIN. I don't disagree. To the contrary, I agree with it. I think that the BIA is where your expertise is; I think that is where your present relationship is, and that is where it ought to remain at this point.

Do you anticipate rather quick reorganization recommendations coming out of BIA?

Mr. KITTO. Mr. Chairman, I would prefer that you ask the BIA that.

Mr. BLOUIN. I will. We intend to ask them a lot. We never run out of things to ask them.

In terms of the impression that you have, do you expect a rather quick resolution of this task force and the formulation of reorganization plans?

Mr. KITTO. I might respond to that this way: With the Congress that we have, with people like yourself and Mr. Quie and the Vice President and with the people like Forrest Gerard and George Goodwin, who is from Minnesota, if the Bureau is not going to be put to task and reorganized and shaped up into providing the needed services to Indian people now, I don't know when it ever is going to be.

Mr. BLOUIN. How long are you willing to wait for that?

Mr. KITTO. That is a very hard question. I will only respond to that by saying we have been waiting an awfully long time right now.

Mr. BLOUIN. Far too long, in my opinion.

Your comment about the Snyder Act on the last page is well taken. I assume your concern is that even though we add $1 million effectively to the authorization, that they are not going to appropriate it. Even if we earmarked it and established a separate section in the Snyder Act for that, we always run the risk of no appropriations and I just don't know how to get around that process. The authorization/appropriation process is baffling around here sometimes. The thing that we can do is to try to stick something in report language very clearly pointing out that this is a very high priority and something that is essential and that it is additional money and is not intended to reduce available funds within the Snyder Act for other things. Then when OMB starts whacking their way through budgets and even prior to that, when the BIA starts piecing theirs together, they will know what the clear intent of the Congress is and the Appropriations Committee will have something to hang their hat on when that request comes in. That might solve that problem.

I don't have any more questions. Does staff have any?

Miss WYSONG. No, only to mention that each of you has seen a copy of that very thorough section by section that was sent out in a rough draft form at the end of January. After reading it, perhaps you can provide us with some valuable insight into areas we have overlooked.

Mr. TANNER. You read the bill and sometimes you read the analysis and there is a lot of gray area.

Mr. BLOUIN. Wherever you see an obvious contradiction in your minds between the two, one or the other can be clarified, because that analysis is what the clear intent of this is in terms of what we understand that bill to say.

When your legal counsel looks at it, we want it changed to meet the wishes of as many Indian tribes as possible.

As I say, I have no more questions. Do you have anything you want to add at this point?

Mr. **Pemberton**. Mr. Chairman and committee members, thank you for coming. We appreciate it.

Mr. **Blouin**. Thank you for coming. We appreciate it.

The subcommittee will be in temporary recess while I go vote.

[Short recess.]

Mr. **Blouin**. The subcommittee will reconvene.

We now would like to welcome Mr. Rick Lavis, the Deputy Assistant Secretary for Indian Affairs, Bureau of Indian Affairs.

Mr. Lavis, you and the program people that are with you, if you would come up.

Mr. **Lavis**. Thank you.

Mr. **Blouin**. We have your testimony. You may proceed through it and make any other comments that any of your supportive staff would like to make, and then we will go into questions.

I am sorry that Mr. Gerrard could not be with us today, but if it is necessary we will make another attempt to obtain his opinions at a later date.

[Prepared statement of Rick Lavis follows:]

STATEMENT OF RICK LAVIS, DEPUTY ASSISTANT SECRETARY-INDIAN AFFAIRS (PROGRAM OPERATIONS), DEPARTMENT OF THE INTERIOR, BEFORE THE HEARING OF THE SUBCOMMITTEE ON ELEMENTARY, SECONDARY, AND VOCATIONAL EDUCATION OF THE COMMITTEE ON EDUCATION AND LABOR, U.S. HOUSE OF REPRESENTATIVES ON H.R. 9810, THE "INDIAN BASIC EDUCATION ACT", FEBRUARY 9, 1978.

Mr. Chairman and members of the Subcommittee, I appreciate the opportunity to testify on H.R. 9810, the "Indian Basic Education Act".

In our meetings with the Subcommittee's staff, I have confirmed my impressions that this Subcommittee and the Committee's Indian Education Task Force is committed to the improvement and promotion of education programs and services for Indian children. We share that commitment and we are determined to remedy any organizational, staffing, and programmatic deficiencies found to be detrimental to the delivery of educational services to Indian children.

We are opposing enactment of H.R. 9810 because it will not contribute to the effective delivery of educational services to Indian children and, indeed, could be counter productive.

Section 2 of the bill provides a number of amendments to PL 81-874 which is administered by the Department of Health, Education, and Welfare. We defer to HEW as to their administration of the PL 874 program of aid to federally impacted public schools which includes schools serving Indian children from Indian reservation areas.

We note that section 2 would shift to the Federal Government the entire cost of the public school education of Indian children living in Indian reservation areas. It is clear that the States have the responsibility for providing public education to Indian children on the same basis that they provide such education to their other citizens. Federal aid for the public education of such Indian children is provided by HEW thru PL 874 and other programs and by the Interior Department through the "Johnson-O'Malley" aid to public schools program administered by the Bureau of Indian Affairs. We believe that a better coordinated system of providing such Federal aid than that provided by the bill should be possible to develop which would be an improvement from both the standpoint of the Federal Government and the states and local public school agencies.

Section 2 also provides that where tribal officials and local public school officials cannot agree on a plan for the use of PL 874 funds, the tribe may elect to have their children served by a BIA school or by a tribal school funded by the BIA. The bill contains a technically deficient requirement for a budget amendment to be submitted to the Congress for the shift to the BIA of the PL 874 funds which will not be going to the public school. However, Indian parents may elect to send their children to the public schools rather than the alternative BIA or tribal schools and the public schools would be entitled to the PL 874 funds for such children.

We believe that there should be meaningful Indian participation in the use of Indian education funds by local public school agencies. The alternative of establishing a BIA school or BIA funded tribal school poses problems in the BIA actually obtaining the necessary funding and in the duplicate public school facilities remaining available with no certainty as to which school the individual Indian parents will choose to send their children. In theory at least, both schools would have to be prepared to accept enrollment of the Indian children each school year.

Sections 3 and 4 of H.R. 9810 are not necessary because we have adequate authority to develop standards for the basic education of Indian children in BIA schools and in boarding school situations utilizing our own staff, the resources of HEW, or contracting with other entities which have the necessary expertise. A contract is being let through HEW's National Institute of Education for the development of a BIA foundation program including dormitory situations.

Section 5 of the bill is not necessary because BIA education facilities are now required to meet state and federal minimum standards. In addition a new BIA school construction priority system has been developed and will be utilized in preparing the Department's FY 1980 budget request.

Section 6 of H.R. 9810 would make tribal schools eligible for certain HEW financial aid on the same basis as are public schools. We support the premise of the provision but defer to HEW, the administering agency.

Our most serious objections to H.R. 9810 relate to sections 8, 10, and 11. Those sections attempt to alter by law certain internal BIA organizational structures and funding procedures. The sections would establish statuatory barriers limiting the ability of the Secretary of the Interior to carry out his statutory responsibilities in the field of Indian education.

The Secretary and his Assistant Secretary for Indian Affairs are nominated by the President and are subject to confirmation by the Senate. Under Reorganization Plan No. 3 of 1950, the Secretary of the Interior has full responsibility and authority for all functions and activities of the Bureau of Indian Affairs. The main purpose of that Reorganization Plan was to eliminate the granting of authorities to lower level officials of the Interior Department thereby limiting the Secretary's authority to carry out the responsibilities of the Interior Department.

We are aware that section 8(a) of the bill states that it is not to "be construed as affecting, diminishing, or altering the authority of the Assistant Secretary in any way, and all ultimate authority in Indian education matters administered by the Department of the Interior shall remain with the Assistant Secretary and the Secretary of the Interior." However, that language does not alter the fact that the sections 8, 10, and 11 of the bill would severely limit the Secretary's authorities with respect to the administration of Indian education programs.

Section 8 apparently would require the establishment of something akin to a partially independent Bureau within the Bureau of Indian Affairs. In addition, the bill would preclude any authority over BIA schools to be vested in area offices thereby apparently precluding any regional type of organization. Direct control from Washington, D.C. of over 200 widely scattered schools may not be feasible or desirable. At the very least such an operation would probably require a significant increase in the number of BIA employees in Washington and we believe that any such increases would be best utilized where they can provide services to Indian children rather than attempting to administer what might become a statutorily created administrative nightmare.

One of the reasons we understand that is given for legislating direct Washington Office control over BIA schools is that such a system is necessary to promote local Indian control of the schools. We believe that fostering Indian control of education and other BIA programs and services is best accomplished through development of tribal capacities and proper orientation and direction of BIA employees. Under PL 93-638 Indian tribes are given the right to take over the operation of BIA schools (or other BIA services or programs) under BIA funded contracts. In addition, we administratively promote the involvement of Indians in the planning and implementation of programs and services where the tribes have not elected to take them over under a contract.

Section 10 mandates the establishment of a funding formula for BIA schools. We agree that a logical, rational method of allocating funds is necessary and we are contracting thru the National Institute of Education for the development of a foundation program for BIA schools.

Section 10(c) requires the Assistant Secretary to establish a discretionary contingency fund under the control of the BIA's Director of Indian Education Programs. The wide administrative discretion permitted for use of the fund could open it up to use as a "slush" fund to aid favored tribes or organizations and distort the budget process and promote failure to face and deal with funding problems and priorities in the budget process.

Section 11 would require us to "allot funds" directly to the BIA schools which would greatly complicate the BIA's fund control system. Instead of the present 15 allottees, there would be over 200 allottees, each of which would require a fund control staff.

Funds from one school could not be shifted to another to meet unanticipated needs and take advantage of unanticipated savings. Failure to utilize such savings at some schools would result in the funds lapsing at the end of the fiscal year while other schools have unmet needs.

Section 11 (a) (2) limits tribal participation determining the amount of funds provided for schools serving the tribe. This statutory bar to local tribal government control or involvement in funding decision is not consistent with the Indian control theme in other parts of the bill.

We strongly object to the provisions of section 13 which would remove the BIA's education staff from the competitive service and the general pay schedule and which would place these employees instead under a separate BIA system. Although the BIA has had problems in obtaining the teachers it needs for BIA schools, we do not believe that it is clear that the establishment of a separate personnel system is either necessary or desirable. The BIA has been delinquent in taking steps to solve these problems. I was surprised to learn that about two years have elapsed since the BIA was asked to develop a proposal to the Civil Service Commission for greater agency recruitment and examining flexibilities. We believe our problems in this area can be resolved within the framework of the regular civil service appointment and pay system. We intend to work with the Commission in developing a program that will utilize the existing flexibilities of the civil service system and we are confident that this effort will be successful.

Sections 14 through 17 are unnecessary in that they are essentially telling us to do things that we are authorized to do and which are consistent with efforts currently underway within the BIA.

Section 18 would require an "annual report of the state of education within the Bureau". However, it is not clear what purpose the report would serve and what will prevent it from becoming a routine paper work exercise ending up in a number of files.

Section 19 of the bill says that nothing in it denies BIA funding from any present source. The provision appears to be unnecessary as we see nothing in the bill which would cut off any present source of funds.

The definition in section 22 (5) should refer to the "Assistant Secretary of the Interior-Indian Affairs".

This concludes my prepared statement and I will be please to answer questions.

STATEMENT OF HON. RICK LAVIS, DEPUTY ASSISTANT SECRETARY-INDIAN AFFAIRS, ACCOMPANIED BY JOSE A. ZUNI, DIRECTOR, OFFICE OF ADMINISTRATION; WILLIAM OTT, ASSISTANT DIRECTOR, MANAGEMENT SERVICES; JOSEPH GORRELL, ASSISTANT DIRECTOR, FINANCIAL MANAGEMENT; WILLIAM DEMMERT, DIRECTOR, OFFICE OF INDIAN EDUCATION PROGRAMS; AND LOUIS D. BAYHYLLE, DIRECTOR, PERSONNEL SERVICES; DEPARTMENT OF THE INTERIOR

Mr. LAVIS. Mr. Chairman, it might be appropriate if I introduce the members at the table.

Dr. Demmert, Director, Office of Indian Education Programs; Mr. Bayhylle, Director of Personnel Services; Mr. Zuni, here on my left, who is Director, Office of Administration; Mr. Gorrell, Assistant Director, Financial Management; and Mr. William Ott, who is the Assistant Director, Management services.

As you know, Mr. Chairman, I did submit a statement.

I do regret very much that Mr. Gerard was unable to attend. He would have liked very much to be here but he has a long-standing engagement. Luckily, that happened to be held in Palm Springs, so I don't blame him for going. I do want to make some opening comments in addition to my statement, which I assume you will put in the record, so we get some perspective as to where we are.

Mr. Chairman, it should not go unnoticed that it has been the Congress that has been the initiator of change in our education programs to benefit Indian children.

It was the Senate in the mid-1960's which established a Select Committee on Indian Education which undertook a major review of Indian education. Its report still stands today as a landmark in the field.

It was the Congress which initiated Title IV, Johnson-O'Malley Act Reforms, and the Indian Self-Determination and Education Assistance Act.

The current effort on the part of your committee continues this tradition of congressional involvement in addressing Indian education issues. You are to be commended for your enthusiasm and interest and it is my hope that we can work together to produce a quality education program for Indian children.

I also want to tell you of my own deep interest in Indian education. As a former member of Senator Paul Fannin's staff for 5½ years, I was actively involved in the development of the Title IV program, the Johnson-O'Malley Act reforms, the Indian Self-Determination and Education Assistance Act, particularly Title II; the Navajo Community College Act; the development of a plan for increasing the number of Indian health care personnel which was later reflected in Title I of the Indian Health Care Improvement Act; and, finally, in the efforts to obtain increased appropriations for Indian education programs.

In all of these efforts I have learned much, but I have also learned how little I know about the many dimensions of Indian education.

I do not claim to be an expert in Indian education. I do bear, however, heavy responsibilities in developing a management system for realizing the educational objectives of Indian people and for assuring that sufficient manpower and resources are made available to meet our priorities.

I regret, Mr. Chairman, that the Bureau must oppose enactment of H.R. 9810 as presently written. Assistant Secretary Forrest Gerard very much wanted to find a way to support this legislation but circumstances have prevented us from doing so. It is our hope, however, that in the period following these hearings opportunities might occur in which we could find common ground to support legislation which would benefit the long-range objectives of Indian education.

At this time, Mr. Chairman, I would like to review briefly our concerns about H.R. 9810, after which I will be happy to answer any of your questions.

As I view it, the thrust of H.R. 9810 is directed toward instituting —through the statutory process—a management system for the Bureau of Indian Affairs education programs. Some of these proposals are even now receiving considerable attention within the Bureau as the new leadership assumes its responsibilities.

I would like to report that we have taken some significant steps in addressing some of the long-standing management problems in the Bureau which affect education.

First, we have rescinded the moratorium on staffing the central office education program. I am sure with full implementation of this effort we will be able to achieve better results in managing our programs.

Second, we have finalized a school construction priority system which we believe will result in greater efficiency and credibility in identifying the needs of our Bureau schools.

Mr. **Blouin**. Excuse me. You finalized your construction priority system?

Mr. **Lavis**. Yes.

Mr. **Blouin**. In the conversation with Chairman Yates 2 days after his hearings, he said you folks didn't know which end was up or what direction you were heading. He was totally frustrated. I may have misunderstood him, but smoke coming out from under a collar is pretty clear to see.

Mr. **Lavis**. We have met twice with Congressman Yates. On January 25, he was upset and frustrated with us. We spent 2 weeks working with the task force in developing and finalizing a system which had been under review for quite some time. We submitted that on February 7, this last Tuesday, before him, and we had the clear impression that we were moving in the right direction.

Mr. **Blouin**. Maybe I misunderstood.

Mr. **Lavis**. I surely don't want to——

Mr. **Blouin**. I will check the burns on the collar and see what they were from.

Mr. **Lavis**. We have also developed a charter to implement the recommendations of the GSA report on school construction as it affects planning, design and actual construction.

Finally, we have just initiated steps through my office to develop a program to institute a planning process for education, a step which we hope will lead to a Bureauwide comprehensive plan, which not only involves education but all the other program directives from the Bureau.

Mr. Chairman, I realize these efforts still fall far short of meeting your concerns but we are making a good-faith effort as we assume the responsibilities which have been entrusted to us only 100 days ago.

We will be addressing, as we proceed, many of the concerns which are reflected in H.R. 9810, and it is my firm and sincere hope we can work together to resolve these issues in a timely and expeditious fashion.

We are, of course, both after the same thing, the delivery of services to Indian children, in a why which is appropriate to their cultural needs and their own progress as a people.

Mr. BLOUIN. We would appreciate any comments that you might have to make on your prepared text as well at this point.

Mr. LAVIS. All right. Thank you, Mr. Chairman.

Mr. BLOUIN. I would like to recess again, to get another vote in on the floor. I think this is the Sioux Tribe land claims bill and I don't think this committee should miss that vote.

So if you don't mind being in recess until we get back——

Mr. LAVIS. Thank you, Mr. Chairman.

[Short recess.]

Mr. BLOUIN. If you will proceed with comments on your submitted testimony, we would appreciate that, too.

Mr. LAVIS. Mr. Chairman, if I might, I would like to ask permission to submit for the record the statement of Assistant Secretary Forrest Gerard before the Appropriations Committee, which might be useful.

Mr. BLOUIN. Wonderful. If there is no objection, it will be accepted.

[The information referred to above follows:]

Statement of Forrest Gerard
Assistant Secretary--Indian Affairs
U. S. Department of the Interior
Before the House Subcommittee on Interior
Related Agency Appropriations

February 7, 1978

Mr. Chairman, I appreciate the opportunity to review with you our plan to implement the GSA School Construction Report, and the final development of the BIA School Construction Priority System.

GSA SCHOOL CONSTRUCTION REPORT

In regard to the GSA report, I am able to announce that the BIA and the Department of the Interior have agreed on a management plan to implement the recommendations of the report. As a result of this agreement I would like to present to the Committee a copy of the charter which will guide the Bureau and the Department in complying with the GSA recommendations.

As the document states, it classifies the program as "of Secretarial interest" and therefore requires special management procedures.

This document further provides the program description, program goals, operating relationships and resources and delineates the authority and responsibility of a program manager to direct the program.

We are also pleased to advise you that Mr. Richard C. Steele of the GSA has been detailed to the Department of the Interior to serve as the program manager for this program. Having served as the GSA team leader for the GSA report, we are assured that Mr. Steele's participation will provide the much needed continuity to carry out the the recommendations.

With Mr. Steele's background, the support of the Secretary and the broad executive authority granted by this charter we are confident that implementation of the GSA report recommendations will proceed in an expeditious manner.

The Department and the Bureau have also agreed to proceed immediately to inventory the existing 228 Bureau and contract schools. We have further agreed that of these 228 schools the 30 listed on our present priority list will be inventoried immediately. This step will assist us in completing our verification process in ranking our current construction applications for the FY1980 budget. In addition, this will allow us to substantiate inventory costs for the remaining schools.

This initial inventory will cost the Bureau approximately $182,500 when completed.

The cost for the remaining schools will be approximately $1,800,000 and should be completed within 8 months. The steps necessary to inventory the 30 schools are being completed now.

BIA SCHOOL CONSTRUCTION PRIORITY SYSTEM

In regard to the BIA school construction priority system I can announce that we have completed our policy determinations for such a system.

Following our appearance here on January 25, a task force was established to review the existing priority system, the utility of the Comprehensive Evaluation Plan, the appropriateness of the 1953 Bureau policy requiring that Indian children attend public school when such space is available, and the role of Indian Self-Determination.

In reviewing the proposed priority system, we concluded that it was far too complicated, and too judgemental to be objective and credible. The basis for computing the number of unhoused students, for example, did not reflect actual enrollments for determining need. In addition, the proposed system left too much looseness in defining the condition of facilities to permit a realistic assessment as to whether the Bureau should remodel, replace, or construct new facilities.

Finally, the requirement of a Comprehensive Evaluation Plan (CEP) was considered excessive in scope for the purpose of ranking construction projects. It would have required an applicant, in most cases, a tribe, to submit a plan with approximately 50 separate pieces of information.

This requirement would have included information on geography, economics, population, culture, and educational needs projected over a 5 year period.

In the view of the task force, a CEP of this scope was clearly unnecessary for ranking construction projects. In addition, the cost to the tribes, if not the Bureau, would surely have been excessive to meet the objectives of qualifying applications for construction. In this context it should be noted that the Bureau contracted with the Navajo Tribe for $92,000 to produce a CEP which is not scheduled for completion until July 1, 1978 well after our budget cycle is under way for FY1980.

Upon the recommendations of the Deputy Assistant Secretary (Program Operations), I directed that the CEP now be limited to information appropriate to setting construction priorities. I believe this approach will result in a far more effective system.

REVISED POLICIES

As a result of our analysis, and in order to improve the support effectiveness of our priority system, we have established the following Bureau policies:

1). Indian children be educated in facilities as close to home as possible and on a day basis.

2). The existing 1953 Bureau policy directing that Indian students attend public schools where space is available will be changed. The Bureau will now support tribal choice in the selection of schools for their children. The BIA school construction list will now reflect Indian Self-Determination.

3). Every consideration should be given to the renovation of existing facilities before proposing construction of a new facility.

4). Finally, the percentage of unhoused students will be the basis for ranking priorities. A student is considered "unhoused" when the condition of the school facility is such that it can no longer be used without major repairs, renovation or complete replacement; when the space is no longer adequate for the educational program; when the enrollment exceeds the design capacity of the facility. The criteria for measuring these conditions are Bureau, State or Federal standards.

This policy draws heavily on the experience of the Department of HEW and its P. L. 815 school construction program in applying the concept of "unhoused" students. The P. L. 815 priority system with its long standing credibility should give the Bureau a firm basis for similar validity and credibility.

PROCEDURE FOR DEVELOPING THE SCHOOL CONSTRUCTION PRIORITY LIST

On the basis of these policies, and our modification of the existing system, the following procedures constitute the structure of our priority system:

1) A tribe or school will submit an application after obtaining appropriate instruction from our Area Office. This application represents a modification of the existing application to conform to the modified CEP requirements, and the GAO and GSA reports.

2) The application is completed by the school, school board, and Bureau agency office personnel in a cooperative fashion. The application provides basic data and information that will enable us to rank the application, the school's attendance area, their distance from the applicant school in miles and time; tribal support for the school; whether the local public school has applied for a P. L. 815 grant and if so its status and rank, whether the public school is contemplating new construction or expansion, and the role of the applicant school in the general scheme of the reservation educational plan. This information represents a reduction in the scope of the Comprehensive Education Plan.

3) The application is submitted to the Tribe for their review and approval. Where a Tribe has several schools on its reservation for which applications are submitted, the priority for construction will be determined by the Bureau ranking process.

4) The application is submitted to the Area Director for review for accuracy and completeness. This review serves to ensure the involvement of our line officials in the decision-making process as recommended by the GSA Report. On-going technical assistance is available to a school unit in completing its application.

5) The Area Director forwards the completed application to the Central Office where it is reviewed by the Office of Indian Education.

6) The applicant (school or tribe) is given a tentative rank, based on the percent of unhoused students. The applicant is notified in writing of the tentative ranking with the advice that this ranking may change with verification and/or when an annual updating occurs.

7) The application data is verified by an on-site visit of Bureau educational planners and engineering specialists Verification will address the existing conditions describec in the application and determine what must be done to correct them realistically based on a cost-effective life-cycle study as recommended by GSA. It will also address the possibility of using other schools in the attendance area (Bureau, public or contract). In addition, it serves to determine the percentage of "unhoused" students in ranking the application according to the percentage (not the number) of "unhoused" Indian students.

The percent of the "unhoused" enrollment is used rather than the actual number of such students to enable smaller schools to compete equally with larger schools. In case of a tie in the ranking, the determining factor will be economy of travel in using an alternative school. The distance of the applicant school from the nearest school (Bureau, public, or contract) that can accommodate the "unhoused" enrollment will be determined. Preference will be given to the school whose enrollment would have to travel the greater distance (in miles) to attend school. This factor is determined as follows: Number of "unhoused" students times distance in miles, i.e., student-miles. The school having the greater number student-miles as an alternative will be preferred.

8). After the data is verified, the application will be given a final rank by the Bureau. The applicant is notified in writing of the final rank.

9) School applications will be accepted until March 1st of each year. Based on verification and final ranking of the new applicants, the priority list will be updated in time for the annual budget cycle.

These procedures form the heart of our new system for ranking school construction priorities.

By relying on the concept of "unhoused students" the system reduces the number of judgemental factors and uses widely recognized and understood concepts.

By modifying the CEP, we reduced the number of requirements for verifying school applications while increasing the efficiency of the system.

By simplifying the overall system we reduced the complexity while increasing credibility and acceptance.

FY 1979 - 1980

For 1979 we have expanded the committed projects list by adding Chemawa which will soon enter the construction phase. As a result 9 schools are presently under various stages of construction representing some $55 million in commitments.

I recommend that these schools be funded before funding any new starts.

For FY1980, we propose to complete field verification of the existing 30 schools and any new applications which may be submitted by March 1st for the purpose of meeting our 1980 budget cycle. We have already begun this process by taking the following steps:

1). Transferring existing information from the old to the modified application form.

2) Requesting additional information by telegram from the effected tribes which should be completed by February 15th, 1978.

3) Arranging for field verifications of the 30 schools and others as necessary.

We believe that these schedules are realistic and can be achieved.

Mr. Chairman, we believe we have achieved significant progress in resolving the many policy issues surrounding the school construction priority system. We realize, of course, that full implementation of the system is still to be accomplished but we are confident that we are at long last on the way to establishin a system which can guide you as well as the Bureau in allocating scarce resources in an effective and efficient way.

This concludes my statement and we will be pleased to respond to your questions.

Mr. LAVIS. That lays out the entire proposal.

Also, the Memorandum of Agreement in the Bureau of Indian Affairs and Department of the Interior on implementing the GSA recommendations on school construction in terms of design, planning and maintenance, which might be useful.

Mr. BLOUIN. If there is no objection to that, that will also be included.

[The material referred to above follows:]

MEMORANDUM OF UNDERSTANDING AND AGREEMENT FOR SERVICES

Agreement No.: 77-2
Project No. : N2403197

Management Consultation and Review
Bureau of Indian Affairs
Division of Facilities Engineering
Albuquerque, New Mexico

Whereas the Department of the Interior, Bureau of Indian Affairs (BIA) desires to have performed a complete management review of its school facilities construction and maintenance programs, herein referred to as the Project.

Therefore, the General Services Administration (GSA) acting by and through the Public Buildings Service (PBS) and the Bureau of Indian Affairs, do hereby mutually agree that effective they will respectively fulfill the undertakings and obligations set forth herein.

GSA SERVICES

General

The Bureau of Indian Affairs, Department of the Interior has requested that the General Services Administration, Public Buildings Service provide engineering and technical consultation services relative to the BIA's school facilities construction and maintenance program.

Program Outline

The scope of services to be provided by the GSA shall include consultation and review of management practices in the planning, design, construction, and maintenance of school facilities. These shall include review and recommendations relative to design services, construction services, contracting procedures, construction management, inspection services and facility maintenance procedures.

The management review shall be performed at the BIA Central Office, Washington, D.C.; Division of Facilities Engineering, Albuquerque, New Mexico; and such field sites as may be necessary in order to accomplish a full review for preparation of recommendations for improvements to the school facilities construction and maintenance programs.

Schedule

The GSA shall commence work on this project upon signature of both parties to this agreement and shall provide the required services under the following schedule:

1. Complete review and inspection of BIA operations by September 15, 1977.
2. Prepare a report of the review with recommendations for presentation to BIA by October 15, 1977.
3. Provide quarterly review of BIA implementation of study recommendations beginning January 1, 1978.
4. Provide additional operational and technical consultation for specific projects and improvements in management practices, as required.

Resources

The General Services Administration agrees to commit the required manpower and expertise to accomplish the stated project within the allotted schedule.

Coordination

The GSA shall name a key official to represent the agency in all matters concerning the agreement. BIA shall rely upon the decisions of representations of this designated official, unless notified otherwise by GSA.

OBLIGATIONS OF THE BUREAU OF INDIAN AFFAIRS

Funding

The Bureau of Indian Affairs agrees to provide the funds to cover the cost of all services within this agreement. Such funds shall be transferred to the GSA from the BIA via Reimbursable Work Authorization (GSA Form 2957).

Coordination

The BIA shall name a key official to represent the agency in all matters concerning this agreement. GSA will rely upon the decisions of representations by the designated official unless notified otherwise by the BIA.

Jay Solomon

Joel W. Solomon
Administrator
General Services Administration

Raymond Butler
Acting Commissioner
Bureau of Indian Affairs
Department of the Interior

Cecil D. Andrus
Secretary
Department of the Interior

Mr. LAVIS. Thank you very much, Mr. Chairman.

Mr. Chairman and members of the subcommittee, I appreciate the opportunity to testify on H.R. 9810, the Indian Basic Education Act.

In our meetings with the subcommittee's staff, I have confirmed my impressions that this subcommittee and the committee's Advisory Study Group on Indian Education is committed to the improvement and promotion of education programs and services for Indian children.

We share that commitment and we are determined to remedy any organizational, staffing and programing deficiencies found to be detrimental to the delivery of educational services to Indian children.

We are opposing enactment of H.R. 9810 because it will not contribute to the effective delivery of educational services to Indian children and indeed could be counterproductive.

Section 2 of the bill provides a number of amendments to Public Law 81-874 which is administered by the Department of Health, Education, and Welfare. We defer to HEW as to their administration of the Public Law 81-874 program of aid to federally impacted public schools which includes schools serving Indian children from Indian reservation areas.

We note that section 2 would shift to the Federal Government the entire cost of the public school education of Indian children living on Indian reservation areas. It is clear that the States have the responsibility for providing public education to Indian children on the same basis that they provide such education to their other citizens. Federal aid for the public education of such Indian children is provided by HEW through Public Law 81-874 and other programs; and, by the Interior Department through the Johnson-O'Malley Act aid to public schools program administered by the Bureau of Indian Affairs.

We believe that a better coordinated system of providing such Federal aid than that provided by the bill should be developed which would be an improvement, from both the standpoint of the Federal Government and the States and local public school agencies.

Section 2 also provides that where tribal officials and local public school officials cannot agree on a plan for the use of Public Law 81-874 funds, the tribe may elect to have their children served by a BIA school or by a tribal school funded by the BIA. The bill contains a technically deficient requirement for a budget amendment to be submitted to the Congress for the shift to the BIA of the P.L. 81-874 funds which will not be going to the public school. However, Indian parents may elect to send their children to the public schools rather than the alternative BIA or tribal schools and the public schools would be entitled to the P.L. 81-874 funds for such children.

We believe that there should be meaningful participation in the use of Indian education funds by local public school agencies. The alternative of establishing a BIA school or BIA-funded tribal school poses problems in the BIA actually obtaining the necessary funding and in the duplicate public school facilities remaining available with no certainty as to which school the individual Indian parents will choose to send their children.

In theory at least, both schools would have to be prepared to accept enrollment of the Indian children each school year.

Sections 3 and 4 of H.R. 9810 are not necessary because we have adequate authority to develop standards for the basic education of Indian children in BIA schools and in boarding school situations utilizing our own staff, the resources of HEW, or contracting with other entities that have the necessary expertise. A contract is being let through HEW's National Institute of Education for the development of a BIA foundation program including dormitory situations.

Section 5 of the bill is not necessary, in our opinion, because BIA education facilities are now required to meet State and Federal minimum standards. In addition, a new BIA school construction priority system has been developed and will be utilized in preparing the Department's fiscal year 1980 budget request.

Section 6 of H.R. 9810 would make tribal schools eligible for certain HEW financial aid on the same basis as are public schools. We support the premise of the provision but defer to HEW, the administering agency.

Our most serious objections to H.R. 9810 relate to sections 8, 10 and 11. Those sections attempt to alter by law certain internal BIA organizational structures and funding procedures. The sections would establish statutory barriers limiting the ability of the Secretary of the Interior to carry out his statutory responsibilities in the field of Indian education.

The Secretary and his Assistant Secretary for Indian Affairs are nominated by the President and are subject to confirmation by the Senate. Under Reorganization Plan No. 3 of 1950, the Secretary of the Interior has full responsibility and authority for all functions and activities of the Bureau of Indian Affairs. The main purpose of that reorganization plan was to eliminate the granting of authorities to lower level officials of the Interior Department, thereby limiting the Secretary's authority to carry out the responsibilities of the Interior Department.

We are aware that section 8(a) of the bill states that it is not to

> be construed as affecting, diminishing or altering the authority of the Assistant Secretary in any way, and all ultimate authority in Indian education matters administered by the Department of the Interior shall remain with the Assistant Secretary and the Secretary of the Interior.

However, that language does not alter the fact that sections 8, 10, and 11 of the bill would severely limit the Secretary's authorities with respect to the administration of Indian education programs.

Section 8 apparently would require the establishment of something akin to a partially independent Bureau within the Bureau of Indian Affairs. In addition, the bill would preclude any authority over BIA schools to be vested in area offices, thereby apparently precluding any regional type of organization. Direct control from Washington, D.C., of over 226 widely scattered schools may not be feasible or desirable. At the very least, such an operation would probably require a significant increase in the number of BIA employees in Washington. We believe that any such increases would be best utilized where they can provide services to Indian children, rather than attempting to administer what might become a statutorily created administrative nightmare.

One of the reasons we understand that is given for legislating direct Washington control over BIA schools is that such a system is necessary to promote local Indian control of the schools. We believe that fostering Indian control of education and other BIA programs and services is best accomplished through development of tribal capacities and proper orientation and direction of BIA employees. Under Public Law 93-638, Indian tribes are given the right to take over or redesign the operation of BIA schools—or other BIA services or programs—under BIA-funded contracts. In addition, we administratively promote the involvement of Indians in the planning and implementation of programs and services where the tribes have not elected to operate them under a contract.

Section 10 mandates the establishment of a funding formula for BIA schools. We agree that a logical, rational method of allocating funds is necessary and we are contracting through the National Institute of Education for the development of a foundation program for BIA schools.

Section 10(c) requires the Assistant Secretary to establish a discretionary contingency fund under the control of the BIA's Director of Indian Education programs. The wide administrative discretion permitted for use of the fund could open it up for use as a slush fund to aid favored tribes or organizations, distort the Congressional budget process, and promote failure to face and deal with funding problems and priorities in the budget process.

Section 11 would require us to allot funds directly to the BIA schools which would greatly complicate the BIA's fund control system. Instead of the present 15 allottees, there would be over 200 allottees, each of which would require a fund control staff.

Funds from one school could not be shifted to another to meet unanticipated needs and take advantage of unanticipated savings. Failure to utilize such savings at some schools would result in the funds lapsing at the end of the fiscal year while other schools have unmet needs.

Section 11(a)(2) limits tribal participation determining the amount of funds provided for schools serving the tribe. This statutory bar to local tribal government control or involvement in funding decision is not consistent with the Indian control theme in other parts of the bill.

We strongly object to the provisions of section 13 which would remove the BIA's education staff from the competitive service and the general pay schedule and which would place these employees instead under a separate BIA system. Although the BIA has had problems in obtaining the teachers it needs for BIA schools, we do not believe that it is clear that the establishment of a separate personnel system is either necessary or desirable.

The BIA has been delinquent in taking steps to solve these problems. I admit that I was surprised to learn that about 2 years have elapsed since the BIA was asked to develop a proposal to the Civil Service Commission for greater agency recruitment and examining flexibilities. We believe our problems in this area can be resolved within the framework of the regular civil service appointment and pay system. We intend to work with the Commission in developing a program that will utilize the existing flexibilities of the civil service system and we are confident that this effort will be successful.

Sections 14 through 17 are unnecessary, in that they are essentially telling us to do things that we are authorized to do and which are consistent with the efforts currently underway within the BIA.

Section 18 would require an "annual report of the state of education within the Bureau." However, it is not clear what purpose the report would serve and what will prevent it from becoming a routine paperwork exercise ending up in a number of files.

Section 19 of the bill says that nothing in it denies BIA funding from any present source. The provision appears to be unnecessary, as we see nothing in the bill which would cut off any present source of funds.

The definition in section 22(5) should refer to the "Assistant Secretary of the Interior—Indian Affairs."

Mr. Chairman, that completes my statement.

Let me just add one further note.

Many of the proposals, as I stated in our earlier statement, have to do with the management control system of the BIA education program, and we are attempting to address that.

As you know, we have only been in office for a short time, and we have attempted to develop management procedures and processes which have been neglected for a long time. We would hope that we would have your support.

Mr. BLOUIN. Thank you.

Just as a first comment about section 18 and the annual report on the state of education, just for the sake of your understanding of it. The purpose is to help the Congress to fill its constitutional mandate for oversight of the agencies. Something like this should have been done routinely over the last 20 years or so. If it had, Indians might be getting something of a responsive nature out of the BIA, beyond the normal complaint that it's not our fault, caused by the change of personnel in and out.

With regards to your comments on page 6 with regard to the educational staff—there are a lot of things in BIA that I would expect you to sit there and defend, but that is the most ludicrous defense of anything I have ever seen in my years in office. That has to be absolutely the worst system of employing teachers that the human mind can possibly devise. To see students sitting around waiting 4 or 5 months, or a year in some instances, for a basic classroom teacher because some stupid system requires personnel to be handed to them on official forms of 10 or 15 names at a time or to be a supervisor and be handed in and out of bureaucratic offices and have to call down lists that are old, and wait until applicants refuse one at a time, and then go back for another dip. It is stupid. It is a most stupid, indefensible system and I just don't know how you can overhaul it within the framework of the civil service system as it now exists.

I don't think we can anticipate the passage of the President's plan and base all of our projections on what may or may not happen. To think that change of the magnitude needed can be done within the system just completely baffles me. That is a ridiculous system that can't work in that kind of an arena.

You bring teachers out to a reservation, site unseen. In a day they can, quite legally and without any recourse on the part of the school, walk away because civil service lets them, and to hell with the kids and the school and the Indians and the commitment and the treaty relationships and everything else. To think that that system exists and you are defending it here is just—it tells me that whoever wrote this has never been on a reservation or near the problem enough to understand what has happened.

I would like to know how you can defend that kind of a thing.

Mr. LAVIS. Mr. Chairman, I am not going to defend a system that you have eloquently identified. What I hope we can do is to at least find a way we can resolve these problems from existing authorities. I would like to try that first.

I am not going to rule out the possibility of legislative remedy here, but I am saying that I would like to see what can be done. We have not taken advantage of those opportunities being offered to us in the last 2 or 3 months.

Mr. BLOUIN. Why not?

Mr. LAVIS. Because frankly we don't have our system in order.

Mr. BLOUIN. How many vacancies exist today in the teacher personnel in the BIA system?

Mr. BAYHYLLE. With the exception of the Aberdeen areas, which we don't have a figure for yet, we have 159 vacancies.

Mr. BLOUIN. One hundred fifty-nine vacancies?

Mr. BAYHYLLE. Yes.

Mr. BLOUIN. This is the February, second semester of school year 1977-78?

Mr. BAYHYLLE. Yes, sir.

Mr. BLOUIN. That is a great system.

Mr. BAYHYLLE. It is out of the total of 2,200.

Mr. BLOUIN. Where are they?

Mr. BAYHYLLE. The vacancies?

Mr. BLOUIN. Yes, what areas? What areas of employment are they in? Are they teachers, every one?

Mr. BAYHYLLE. Yes.

Mr. BLOUIN. Teachers?

Mr. BAYHYLLE. Yes, sir, classroom teachers, and I have the figure.

Mr. BLOUIN. And it is fair to assume that, at a minimum, there are 159 classes out there, in BIA schools that have no certified, qualified teachers on the right kind of a ratio basis, right?

Mr. BAYHYLLE. Well, not necessarily, sir. I respectfully disagree with that, because the figures that I have dealt with are permanent, full-time teaching staff.

Now in addition to that, we do have substitute teachers, intermittent teachers, standing by to take the regular teacher's place while we are recruiting for some of the others.

Mr. BLOUIN. I didn't teach very long but it was long enough to learn that you don't learn much from a substitute teacher; it is a babysitting affair, and I think any teacher, including substitutes, will tell you that.

So, for all intents and purposes, there is no ongoing program in BIA schools nationwide. What is the average length of those vacancies?

Mr. **Bayhylle.** I am sorry, sir, I don't have that.

Mr. **Blouin.** What is the oldest vacancy?

Mr. **Bayhylle.** I don't have that with me. I just have a number.

Mr. **Blouin.** You said that includes everything but Aberdeen?

Mr. **Bayhylle.** Yes, sir.

Mr. **Blouin.** Does it include Alaska?

Mr. **Bayhylle.** Yes.

Mr. **Blouin.** It does. Navajo and so on?

Mr. **Bayhylle.** Yes.

Mr. **Blouin.** We would like to know what the average length of those vacancies is, the longest one and the average length and how many of them have been there since the beginning of the school year. Can you tell us that?

Mr. **Bayhylle.** I can get that for you.

Mr. **Blouin.** We would like to know that. We would like to know that for the record.

[The information requested follows:]

United States Department of the Interior
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

April 10, 1978

Mr. Allan Lovesee
House Education and Labor Committee
2181 Rayburn House Office Building
Washington, D. C. 20515

Dear Allan:

Enclosed is a copy of the report you requested on teacher aids and title program positions.

I hope this information will be helpful.

Sincerely,

Rick C. Lavis
Deputy Assistant Secretary
Indian Affairs (Program Operations)

Enclosure
cc: Ms. Jenny Wysong

Permanent Classroom Positions - BIA (March 22, 1978)
Teacher Aids and Title Program Positions

Area	Number of Positions		Number of Vacant Positions		Average Length of Vacancy
	Aids	Title Program	Aids	Title Program	
Aberdeen	114	3	14	1	2 - 3 months
Albuquerque	45	101	2	13	3 months
Anadarko	2	1	2	1	2 months
Eastern Area	0	89	0	3	1 - 1½ months
Juneau	56	124	3	8	1 - 1½ months
Muskogee	2	3	2	3	1 - 1½ months
Navajo	586	712	24	30	2 - 3 months
Phoenix	110	62	6	7	4 months
Portland	0	3	0	0	3 months
TOTAL	915	1,098	53	66	2½ months

Mr. **Blouin.** You know those inherent problems within the system and without a contract, and a one-on-one basis for that teacher it is extremely difficult to get any kind of consistency in that classroom. Granted, teachers can walk away from a contract agreement too. But it is pretty tough, without overriding reasons, in just about any part of this country to avoid being blackballed if you do it.

Under civil service you get a bonus for it; you get a free trip to your next location. You get to see the world, while leaving the classrooms empty. It is a great system.

You made a comment in the very beginning of your testimony, Mr. Lavis, about circumstances preventing your support of this legislation. Would you tell me what those circumstances were?

Mr. **Lavis.** I think that the basic circumstance was time. Mr. Chairman, as I indicated, again, I have just come into office. My appointment papers in terms of—and this is civil service—took them 2 months to process, so I had less than what you would call the basic authority to move on the kinds of issues that we are facing in the Bureau. We have had to go through a long series of internal reorganization within the Bureau because of the elevation of the Commissioner position to Assistant Secretary status.

Only recently have I had the opportunity to visit the staff, to begin discussions on this legislation, and it has left us with very little time to develop what might be creative responses to these kinds of issues you raise.

I agree with you, there are going to be differences of opinion between us as to how we resolve these issues, but in terms of appearing here at this point in the game, I was left with the impression that this was going to be our last shot, so that is why we make the statement we make.

Mr. **Blouin.** It is my understanding that this testimony contradicts recent conversations you had with our staff with regard to trying to find grounds for working out some basic differences on general agreement. If I understand what you are saying now, you are now opposed to this because you have not had time to study the Bill.

Mr. **Lavis.** My impression, Mr. Chairman, was that you were going to move ahead and that there was very little time for us to develop the kinds of positions we might like to take on some of these issues, and clear these positions in the Department and the Office of Management and Budget, so we could proceed with the decision.

Mr. **Blouin.** You were told by our general counsel that time is a flexible commodity. I know Mr. Gerard was here in September and assured us that the Bureau would analyze the bill and this is what, 4 months later, so we assume that there would have been some time to analyze it in any event.

We are more than willing to work our time, but if that is your basic reason for opposing the legislation, I just want to clarify that on the record.

Mr. **Lavis.** No, sir; I want to make this very clear. I respectfully want to indicate to you I believe there is a breakdown in communication on this issue. I felt the same way you did, that it got some conflicting signals and that is just the nature of the game.

Mr. **Blouin**. Why don't you go into these conflicting signals?

Mr. **Lavis**. Mr. Chairman, when I last met with the staff they advised me that——

Mr. **Blouin**. Which staff?

Mr. **Lavis**. Mr. Lovesee and Miss Wysong, and we were exploring various areas. I told them very clearly that I was finding it very difficult to get on top of this, because I was faced with a school construction priority system problem. I was also scheduled, as you know, this morning to testify on the child welfare legislation. I indicated to the staff that this left me very little room to get on top of this as well. This is one of my dearest and favorite subjects but my schedule and the incredible learning process in understanding the Bureau have prevented me from really getting involved in it.

My last conversation with the staff was that we were going to proceed on the basis that I would not appear today, and would get another opportunity for us to talk about where we could end up.

Mr. Lovesee very graciously said, "Look at your schedule and we will proceed" and I would do that the following day. The following day Mr. Lovesee called me and indicated there was a problem in terms of delivering the requests for a clearance and in terms of the address, so I got the impression that the hearings were on and that I was expected to be here, which I thought—I didn't really know what to expect.

I did finally contact Mr. Lovesee late in the game and, unfortunately, as things have proceeded, we didn't really know whether we would have another time to develop that dialog.

The staff indicated that the SEC was facing you in terms of markups on one date, so that that leaves little room; so I proceeded on the basis that maybe you didn't have enough room.

Mr. **Blouin**. That is not the way we understand the thrust of things. In any event, those are rather strange reasons for deciding to oppose legislation.

Mr. **Quie**. Would the gentleman yield?

Mr. **Blouin**. I yield to my colleague.

Mr. **Quie**. Mr. Lavis, how long would it take you to develop your position?

Mr. **Lavis**. As I indicated, I could begin—what I was planning to do is to begin as early as next week to develop some alternatives.

Mr. **Quie**. If you had the time, would you be changing your position of opposition to H.R. 9810?

Mr. **Lavis**. I would like very much, Congressman, to find some answers. There are some issues here which the Assistant Secretary is clearly opposed to, particularly direct line authority, but there are some areas in this legislation you might address and there are some areas that are not being addressed that we feel should be addressed. I would like to do what I can to get on schedule.

Mr. **Quie**. My assumption is that we are interfering with you and that you would just as soon the Congress would go away so you could run things the way you wanted to down at the BIA. If we were confident that that would bring success, we probably would say, "OK, do that," but we have the whole history here that does not give us that kind of confidence at all.

We talked about civil service teachers that have been with the BIA for a long period of time.

Mr. **Lavis.** That is right.

Mr. **Quie.** After a while you just become so concerned that we feel we have to move with legislative action.

Mr. **Lavis.** Yes, sir; you have every right, in view of the history, to make the assumption but I do not make the assumption, nor do I assume that you should let us do what we want to do.

Mr. **Quie.** I am glad you recognize that.

Mr. **Lavis.** Congressman, let me just point out—you were not here in my opening statement but I spent 5½ years on the Hill with Senator Fannin and that has been an education, and I did work with your staff some years ago in developing a GAO study with BIA, so I know exactly the problems the Bureau faces.

I am on the other side of the table now, confronting other kinds of approaches and other kinds of demands, but I don't assume for one minute that you should let us do what we want to do.

As I indicated further in my opening statement, it has been the Congress that has initiated change in education.

Mr. **Blouin.** Some of these phrases, "section 3 and section 4 are not necessary because we have adequate authority. Section 5 is not necessary because now we have decided that we are going to meet Federal and State minimum standards. Section 6 we support the premise but we defer to HEW, another Agency, to make that decision"—the phraseology in here makes it very hard to correlate those comments with what you have just said.

Mr. **Lavis.** Yes, sir.

Mr. **Blouin.** It seems like an obvious contradiction. Are these not your words?

Mr. **Lavis.** Yes.

Mr. **Quie.** Mr. Lavis, when we come to this kind of a confrontation, I think it best that we do not push it too hard so that we have a chance to save as much face as we can on both sides.

I would suggest that we not try to protect our prerogatives but we address ourselves to the interests of Indian children and develop a program that can best meet their needs. If we can do that, then I think we will come up with legislation that will be most acceptable to live with and have pride in.

Mr. **Lavis.** I quite agree with you, Congressman, and I am sort of caught between what I hope to achieve and I want to share these concerns with you. After arriving at the Bureau and finding years of neglect in terms of management procedures, basic decision-making processes, surprises that are unending—and I don't mind sharing that kind of linen with you—and spending a great deal of time attempting to catch hold, to impose and discipline our system and to began to address some very real issues.

Education comprises one-third, perhaps more, of our annual budget. We have to justify that and I am not satisfied with that justification, but there are some other very real issues, and that is where this particular piece of legislation is either going to impose a burden on us, or is going to put us in too tight time-frames.

For example, you have had almost from July 13, 1976; we have had an approved education reorganization plan. Shortly after this administration took office, for a number of reasons, some having to do with reorganization, some having a direct line of authority to the Director of Education, the Secretary put a hold on that reorganization and as a result we have not been able to hire any temporary or permanent employees, and that has been running very ragged from the standpoint of sound management; and when I came into office and I took a look at it, I took a little time. I wanted to see what it was all about. We got that freeze lifted and we are proceeding.

The question is in terms of organizing ourselves. Are we organized sufficiently to do the job? Have we asked ourselves some basic questions: What are we doing? What kinds of service do we want to deliver and how do we want to provide those kinds of services which are appropriate to self-determination? How do we want to do it in such a way so that we can be proud of what we want to do?

They are tough philosophical questions.

I am not here to defend the Bureau and then, again, I am, because there is some measure, some commitment, some very good people who are caught up in a situation in which it is awfully tough to deliver those services. To do that is very difficult, when at the same time you are trying to give credence to Indian people, their culture, their values and their organization.

Congressman, there is very little consensus in Indian country.

Mr. QUIE. Let me say from the experience that Frank Lynn reported to me, I have a high regard for you in approaching the Indians. I recognize that you are serving in a different capacity than you did before. Some people tell me, "How long does it take a person to change their way when they go downtown?" And I say, "About as long as it takes a taxicab to take you down there."

If we worry about our own jurisdiction, whether our own heads will roll——

Mr. LAVIS. I would very much like to reach out and find those common grounds which we can live with and which are appropriate to the context of the education. I very much want to achieve the same objectives as this subcommittee.

Mr. BLOUIN. Do you have any type of a timetable to achieve those decisions?

Mr. LAVIS. Mr. Chairman, I was asked that same sort of question in another context by Congressman Yates and I sort of stuttered around and it was like inventing the wheel to try to determine where you are and where you are going.

I would like to address it as quickly as I can.

My understanding, however, Mr. Chairman—and correct me if I am wrong—is that you are facing a March 1 beginning of markup and that puts us really under a tight time frame.

Mr. QUIE. Well, we are beginning the markup.

Mr. BLOUIN. We still have some flexibility. Let me just say that from the side of this advisory group there has been roughly 18 months' worth of thought put into what we are developing. It has been based on an exceptional amount of field work by the staff, that has probably established contact with more Indian tribes and groups nationwide than the BIA central office does in an equal period of time collectively, and it is exceptionally exacerbating to run into a conflict such as this.

Do you feel that it would be a benefit in terms of arriving at some kind of a consensus if there were some type of regular consulation these next 2 weeks prior to a hearing that would be held to bring you people back with the staff?

Mr. LAVIS. Yes, sir; I welcome that.

Mr. BLOUIN. Do you feel we can accomplish anything in that time period?

Mr. LAVIS. I would hope so.

Mr. BLOUIN. I know in terms of my schedule I have been trying to get together with Mr. Gerard for quite some time.

We have also been trying to get together with HEW and maybe we ought to get back on the staff level and try to work things out there.

Mr. LAVIS. Among 10,000 other things, I consider this high priority.

Mr. BLOUIN. I think that goes the same for the Congress.

Mr. LAVIS. Certainly.

Mr. BLOUIN. The problem is that we have a timetable that we have to meet and you don't, and that makes it difficult for us to function.

Mr. LAVIS. Yes, I do.

Mr. BLOUIN. We have a Budget Committee process that mandates inclusion into that budget resolution by certain set dates and there are only so many weeks of flexibility in the committee's schedule if we are going to make use of what work has been done these past 18 months.

Let me just point out one thing that I have noticed immediately in your testimony, on page 4, in regard to the regional offices. You might want to check back in Mr. Gerard's testimony before this committee in September, where he talked about following the American Indian Policy Review Commission's management study as much as possible and his suggestions or comments in questioning about the value of skirting regional offices without eliminating them. In other words, the need to address the regional office problem is very clearly brought up and I get the impression on page 4 that that opinion is changing, or at the very least modifying itself.

I would appreciate some clarification on that.

Mr. LAVIS. Yes, sir.

Mr. BLOUIN. Well, I don't see any reason to continue at this point. Can you be in touch? Or I will have Mr. Lovesee get in touch with you as soon as we adjourn the subcommittee and I would sincerely appreciate some kind of a rigid time schedule, to try to work out common grounds on this legislation.

The credibility of groups that work with Indians and the commitments made these past 18 months will be completely lost if there is no change. The impression is clearly left that it is more of the same, a lot of lip service and no action, a constant fight between one element of Government and another. I think that would be a travesty of justice if that were to happen in this instance.

I appreciate your willingness to try to work things out.

If you will wait a minute, Ms. Wysong wants to see if Mr. Quie has any additional questions he would like to ask you. Also Mr. Pressler, who is on the floor on the Sioux bill right now, has some questions that he would like to address to you.

Would it be all right if we submitted them to you and you can submit answers back for the record?

Mr. LAVIS. Yes, sir; we will do that.

Mr. BLOUIN. Mr. Quie does have some questions but he is with a group of farmers from his district here one floor below and down the hall. If we listen closely, we could probably hear him—not him but his constituents. Maybe we could stand in recess for a few minutes until he gets back, because he would like an opportunity to ask some questions.

Mr. LAVIS. Thank you.

[Short recess.]

Mr. BLOUIN. I yield to Mr. Quie.

Mr. QUIE. Thank you.

On the first part you say you are going to let HEW talk about the changes in 874, but you do adminster Johnson-O'Malley, so let me address myself to that.

Early on, as I looked at Johnson-O'Malley, I figured those funds ought to be for supplemental education, but I heard from enough school districts where they felt they needed some basic education money besides the 874 money. An attempt is being made to make certain that there would be additional basic education money that the Indians could have some voice over, similar to what they now have in Johnson-O'Malley. We tried to put together in 874 for Indians not only the local share of basic education, but also the State share as well because Indians don't pay income tax or sales tax and therefore we feel that the Federal Government should have an obligation for both the local and State portions of basic education for reservation Indians.

Now, as you look at Johnson-O'Malley, do you believe that we ought to get out of the basic education side entirely and go just to a supplemental, as the Bureau plans?

Mr. LAVIS. I guess I get more involved with that issue as long as I have been involved in the education.

I think—as I understand it, you heard from the Arapahos yesterday on that issue and, as you know, for a long time they received Johnson-O'Malley basic support and it was enough; and they also generated some local money, because they had a utility there which is about the only taxpaying entity there, and then they took it over to run it themselves, thereby eliminating their own tax base; and then they had a shortfall in Johnson-O'Malley—my philosophy has changed, Congressman, on this issue.

At one time I defended vociferously the Johnson-O'Malley program on the basis of providing support for public schools. I have been exposed to the practices in Arizona where they have need without any basis, and it actually became the question of providing for a deficit. It was unhealthy that the Federal Government should be involved in that type of financing.

I still continue to defend operational support as necessary, in a sense. I don't, however, see it in Johnson-O'Malley, for one very basic reason: The Bureau of Indian Affairs has no competency in the sense of public school financing; they just don't have the kind of capability and background and tradition for doing it, and we don't do a very good job of it.

In that regard, I have suggested on a number of occasions that where we ought to concentrate operational support is with Public Law 874, which is really the basic operational support money. The only problem with that is, I don't think there is enough money there.

I would think what we need to do in 874 is to target some of that money to the very basic, critical areas that affect those critical programs.

For example, the increased energy cost for running buses for long distances really eats into the operational cost. The lack of capital expense money—Public Law 815 deals with some of that, but as you know, the backlog of that is extremely high and the Congress only appropriates roughly $15 million to $20 million a year.

The cost of constructing schools is extremely high and you end up building two or three schools and the list grows longer and longer.

Finally, we have the problem with staff. All of those factors have an impact on the operational costs of the reservation public school. So I sort of tend toward 874 to carry that because I think it is a more legitimate area and I don't think the Bureau is capable of doing that kind of financing. I do recognize, however, that there is no legislation in the works to deal with that particular program, to target the money in that regard, so I think the political realities are that the Congress and the executive branch are stuck with the reality of having to provide some support, so Johnson-O'Malley.

Mr. QUIE. That is the attempt we made in H.R. 9810, to try to give the basic support through 874, which is really the same philosophy that you espouse now. I still think that is what we ought to do. Also I believe that the Indians should have some voice over the basic support money, and that they will know by formula how much they will be receiving, because it puts them in the very difficult position of having this phased out without any certainty whether there is going to be any for next year in Johnson-O'Malley.

Mr. LAVIS. That is right.

Mr. QUIE. You are asking for some audits, I understand?

Mr. LAVIS. Yes, sir.

Mr. QUIE. April 1, 1978, we are supposed to have those?

Mr. LAVIS. I would like to have them done earlier, because we are really backing up against the end of the school year and I would like to have those allocated as early as possible so we don't cause any school any particular financial distress.

Mr. QUIE. Do you think you will have them done early?

Mr. LAVIS. Mr. Scott is not here with us. He is in Denver at another meeting. I will check with him and give you a report on Monday.

Mr. QUIE. What sorts of things are you asking?

Mr. **Lavis.** I think our basic problem is reflected in the appropriations act or at least the report language in previous years, if not last year, the reluctance to deal with this issue because we cannot really define what the need is, and we are attempting to find that.

Frankly, I don't have the definition to work with on the audit; I would have to supply that.

Basically, what we are trying to do is make sure that each school is receiving its fair share of the allocated amount so we are not putting money in there that is not necessary.

Mr. **Quie.** Is the form the same for each district?

Mr. **Lavis.** Yes, sir.

Mr. **Quie.** And what are your plans now to continue basic next year?

Mr. **Lavis.** The fiscal year 1979 budget does not provide any operational support.

Mr. **Quie.** You will be out of business?

Mr. **Lavis.** Unless the Congress wants to continue the basic support next year. As you know, we have been operating under a phaseout for the 3-year fiscal period and that was more a congressional decision than ours.

Mr. **Quie.** You mentioned school construction. Last fall when we had hearings, the Bureau told us that regulations governing the priority system were in their final stages and would be published by the end of December. December has come and gone and January has come and gone. How are we doing?

Mr. **Lavis.** In respect to that particular proposal, we have changed the system. When we arrived in office we did a review of that proposed system. We have made some modifications in it. We appeared before Congressman Yates last Tuesday and that proposal is a part of the record. We think we have a better system to prioritize the school construction project.

Mr. **Quie.** Is that going to be up now or are you going to change it?

Mr. **Lavis.** Congressman, I hope so, because we have had four different priority systems in as many years and it does not do anybody any good. We lose our own credibility and are subject to political manipulation and the Appropriations Committee throws up its hands. We hope this system is one that we can all live with.

Mr. **Quie.** Can you change the weighting system?

Mr. **Lavis.** In effect, we dropped some of the computation in favor of a percentage of in-house students which, as you know, is the basis for the Public Law 815 system. We think that will give us a better handle on ranking the projects, and we will submit a field study to determine design capacity, remodel, or whatever the case may be.

I would expect, unfortunately, Congressman, that while the current priority list is roughly 30 schools, there may be some changes within that list.

Mr. **Quie.** Could you show us what you were talking of, say, last fall, in the weighting, and what you know now?

Mr. **Lavis.** I don't have that material with me.

Mr. **Quie**. Could you submit that?

Mr. **Lavis**. I will submit it for the record.

Mr. **Quie**. Good.

Mr. **Quie**. Also, the GAO report states the importance of having comprehensive educational plans for determining them. What has been the response of the Bureau's effort on that?

Mr. **Lavis**. We have had some very strong differences of opinion in the Bureau as to the application of the comprehensive educational plan. It was recommended in its form for ranking school construction priorities. The Assistant Secretary, at my recommendation, decided to eliminate the full scope of that CEP for construction.

I think it still remains to be discussed, the extent to which we would want to apply it for overall planning, but in its application to construction ranking, we have cut it down to management size.

If you don't mind, I would like to just give you an idea of some of the things the tribes are being asked to provide in terms of information for that particular process. As I said, these are areas which we might well utilize and could utilize in a more profound planning process for overall educational needs.

In effect, you are talking about population; you are talking about economic profiles; you are talking about geographic areas, cultural aspects; and then we get into the whole range of educational staffing, programs, and everything else.

We thought that that was too large a piece for a tribe to cut off, just applying for a construction process. We are trying to apply this in the inventory process that GAO is working on and the design plan is phased for construction.

Mr. **Quie**. The ones that were worked on last year, did the area people assist the local personnel?

Mr. **Lavis**. CEP?

Mr. **Quie**. Yes.

Mr. **Lavis**. CEP was not to be acquired for the fiscal year 1980 budget process.

Mr. **Quie**. You don't have any?

Mr. **Lavis**. I believe only about three to four submitted some. One, we gave a contract to Navajo, which, of course, is the largest reservation, for $92,000 and they still have to complete that and don't expect to submit it until July 1, 1978, which is well beyond the budget cycle for 1980.

Mr. **Quie**. What has been the tribal response to the CEP proposal?

Mr. **Lavis**. I don't really know if there has been much response, and I will ask Dr. Demmert to respond to that, because, in view of the fact that it was not planned until the 1980 cycle, it has not been this much involved, but maybe—Bill, do you want to address yourself to that issue?

Dr. **Demmert**. In terms of the official proposal, the information went out and was out for about 8 months or longer, and that CEP was to be developed by the school, with the aid of the area and the tribe.

In general, it is fairly well received by the people that we talked to and the comments for the second draft, of course, were adjusted to meet those.

Mr. Quie. The other question reminds me that yesterday, I believe it was, the Pueblo Indians said they have been waiting for some construction for 15 years and they were, of course, on a priority, and then they got dropped down and nobody can tell them what their current priority is. When they get whipsawed like that, why can't they find out what their latest position is?

Mr. Lavis. I spent some time on this and gave them assurances that we would provide all the information they requested in their application.

We did explain to them the fact that we are now going to suffer another setback. I believe when they testified they expressed the view that they had been whipsawed within a recent period of time. Since arriving at the Bureau, I don't think we have changed the ranking on that priority list at all, but they could well be reflected, say, over the last 3 to 4 years where we have gone through as many, and so I don't blame them, and I have real sympathy for their problem.

The problem that we are trying to address is that within the 30 schools we intend to complete verification of those schools by early May, and complete our ranking on them and, hopefully, get them within our budget process for 1980.

Perhaps, as I indicated to them, there is a chance that with the new rating system they may drop and, again, they may rise.

Mr. Quie. Under the plan that you don't think you are going to change, that you presented to Congressman Yates, when will the schools be listed in sequence, to see who gets what in what year?

Mr. Lavis. We are hoping to have that by the time we appear on April 10, although we have not had this specifically just for our budget appropriations. We have made the recommendation that there are nine schools, totaling some $55 million, which are currently under various forms of construction and we would like to see those funded this fiscal year and completed or at least submitted to that, and we would then proceed with the balance of the 30 schools.

Mr. Quie. In your testimony, you indicate that you have adequate authority to develop the standards for basic education for Indian children in BIA schools, and then you say, "a contract is being let through HEW's National Institute of Education for the development of a BIA foundation program including dormitory situations."

Mr. Lavis. Yes, sir.

Mr. Quie. Now how extensive is that going to be? We have had the staff talk to Indian tribes all over the Nation and not depended on BIA to give us information. As you indicated at one point in your ad libbed testimony, there are great differences in opinions between Indian tribes which we wanted to find out about, so at least we have developed some competence here.

Is that going to be an extensive study or something that they are going to do in their particular fashion?

Mr. Lavis. I think Dr. Demmert can address that question.

Dr. Demmert. It is a major effort using the National Conference of State Legislators under a Judge Calahan, and the education commissioner of the State under Mr. Alan Ouden, who are experts in the field, and they are going directly to our schools in our areas and the central office to look at a profile of what has happened over the past few years, and from that develop a formula and come up with a model based on the model that we developed last year on—for building schools for day schools and contract schools and for secondary institutions. It is very comprehensive.

Mr. QUIE. You talked about State legislators and area offices, right? Is that what you said?

Dr. DEMMERT. Area offices, our schools and our national office here in the District of Columbia, wherever we have the information stored.

Mr. QUIE. To what extent will they talk to Indian parents, students, people out there in the local school? I found that was a little different than what I heard in the area office.

Dr. DEMMERT. In this particular instance, when we developed a concept, our office talked to Indian professionals, tribal leaders, lay persons, and we spent about 8 months developing a concept. At that point we went to some experts and said:

> All right, knowing what you know about school foundation programs, check our financial records with us and using the model that we have discussed in the community and in part conceptualizing, let's talk about building a system for the Bureau schools.

I would assume at some point, once they have developed those recommendations and before we finally present them formally, being in the community again, will have an opportunity to review them.

Mr. QUIE. Will this go at the standards and quality as well?

Dr. DEMMERT. They are focusing primarily on what it would take to run a boarding school in terms of staff, materials, equipment and what it would take to run an educational program with or without a boarding facility, and includes all of the high cost factors, teachers' salaries and on down the line. We are undertaking a live effort for academic standards or for boarding school standards.

We would be doing most of that internally.

Mr. QUIE. I would like to find out from you, if you can tell me, to what extent those individuals in NIE will be on reservations. That still bothers me. If you will furnish that, because one thing I know is that if we had only gone to one reservation we would have been pretty ignorant.

We may not be too brilliant but we know a lot more by going to a host of reservations, rather than going to one, two, or three.

I will give you an example. When I was in Montana, we went to the Northern Cheyenne reservation and the Crow reservation, which provide two substantially different experiences. A person could not have gone to one and understood the other; absolutely, you could not have done it. I don't have much confidence unless those individuals will go and see the great variation between reservations.

Dr. DEMMERT. Two points are very important there: One is that we really don't expect them to become experts in Indian education or in that particular field. We are using them to work with us as experts in the field of school finance and we use experts from the field of Indian education, coupled with that, to develop a program or develop the plans, recommendations and the model, but that does not mean that they will not be attending these schools themselves, because they will.

Mr. **Quie**. Since we are running short on time, I will get over there and vote. Let me ask you quickly, on page 5, of your testimony with regard to section 10, you said, NIE is going to help program and set up the method of allocating funds. How close are they to the decision on that?

Dr. **Demmert**. We expect to have most of the work done by March, the end of March. In part, their time line depends on how responsive we are in getting information for them.

Mr. **Quie**. And then, on page 6, as you read section 11(a)(2), I don't know where you see that the bill provides for a statutory bar to prohibit local tribal control in the funding decision.

As we proposed in that section, there would be an allocation of money to everyone, so they would know what would be made available to them, in the same way the non-Indian public school knows what they can expect to receive. The local area ought to be able to put in more money if they have a higher regard for education, and the Indian tribe ought to be able to divert it to education if they want to.

So what we have talked of in there, you have to reach in some place for themselves and make the decision as well, and they like to have you take another look at that.

Mr. **Lavis**. Thank you.

Mr. **Quie**. It may not be proper, but will you close the meeting without a member here?

Mr. **Lovesee**. Under your authority, sir.

Mr. **Lavis**. Thank you, Congressman.

Mr. **Lovesee**. I believe, as per discussion earlier, we will have meetings over the next several weeks and hopefully arrive at some type of mutually acceptable method of improving the education of Indian students, but let me ask some questions, to clarify the points in the statement.

On page 2, where you discuss the Johnson-O'Malley Act and Public Law 81-874 with respect to the current language within H.R. 9810, you make a statement, "We believe that a better coordinated system of providing such Federal aid than that provided by the bill should be possible."

Two points: No. 1, does the Bureau now have any plans to prolong Johnson-O'Malley basic, or as far as the Bureau is concerned is it out of business at the end of this fiscal year?

Second of all, do I read this language correctly, that—"you" being the Bureau—there is a better way to coordinate Public Law 81-874 and Johnson-O'Malley Act. If so, will you work with us to come up with that particular language, so that you can keep Johnson-O'Malley Act basic going and coordinated with 874?

Those are two questions.

Mr. **Lavis**. With regard to the first question, the President's budget as submitted does not provide for any basic support funds for Johnson-O'Malley; and, in that regard, we would be out of the business of operational cost unless the Congress decided otherwise.

Mr. **Lovesee**. Would you welcome such action on the part of the Congress, that is, the Subcommittee?

Perhaps I should withdraw that particular question and let you get on to the second part.

Go ahead with the second part.

Mr. Lavis. I suppose the reason why we are making the statement that we did on page 2 is that this expresses, or is attempting to express, and perhaps is not being very well done, my views about how we deliver operational costs to public schools; and my view is that, again, 874 is the best kind of approach because it is money in lieu of taxes; it is free money; it is not categorical aid; it does not have an effect on local school budget financing programs that we find in the various jurisdictions.

Perhaps what is necessary is that we target some of that money to deal with the kind of very serious financial problems that they experience. If section 2 addresses that in that regard and it can assure that those kinds of issues can be addressed, I just want to make it very clear that it is absolutely imperative that we begin to try to deal with those issues.

I expressed to you at one time that there is a little known phrase existing having to do with unusual geographical factors, and the usual geographical factors have been utilized more so for Alaska than anybody else.

We asked the Department of HEW to give us some information and some language to amend 874 in that particular area, to cover reservations as in Arizona, because their position was that there is nothing unique with one reservation in Arizona to another reservation in Arizona, they are all distant, they are all isolated, so it really does not qualify for the usual geographical factor which you know, under 874 the Commissioner can provide for funds.

Now you know as well as I do that the Department of HEW did not want to come out with a clearcut decision because it had implications for the act, so we have not gotten very far with it.

I don't know whether that is fully responsive to the second part of your question or not.

Mr. Lovesee. It is, and I think it provides a basis for which we can talk on that.

Mr. Pressler. Yes. I have several questions here and I am just going to read through the list of questions and then maybe it would be better to answer some of them in writing, or perhaps we could answer them here.

I just want to commend you for being here on this difficult subject. I know that I have been meeting several of our officials from South Dakota, both of the schools and of our Indian tribes. Now since I have been a Member of Congress, one of the most time-consuming problem areas I have had to deal with is the allocation of Johnson-O'Malley Act basic support moneys to South Dakota public schools that educate Indian children.

Now there are some specific questions that I have about this process that I would like answered at this time.

On October 7, I forwarded to Forrest Gerard letters from five South Dakota schools and they told me he would be receiving funds for fiscal year 1978. Their school year was already on its way and they still had no word on where the allocation was.

[The questions read by Mr. Pressler follow:]

House Advisory Study Group on Indian Education
Hearings on H.R. 9810
Thursday, February 9th, 1978, 1:00 p.m. 2257 RHOB

Today the main witness testifying will be Mr. Forrest Gerard, Assistant Secretary for Indian Affairs (BIA).

At an earlier hearing, you asked BIA officials some questions that still have unclear answers; those questions should be asked of Mr. Gerard today:

1.) Where is education in the last of priorities in the BIA?

2.) What is the future of education services in the Aberdeen Area Office? When BIA reorganization is discussed, what action is being planned to improve the communications and technical assistance offered by the BIA here in Washington to the Aberdeen Area BIA officials so our education needs can best be served?

3.) How many education vacancies are there in the Aberdeen Area? How many teaching positions and administration positions are currently unfilled? (This is a major problem in Indian schools nationwide.) What is the BIA doing to fill these positions?

4.) What is the average time that an education position remains vacant in BIA schools?

IMPORTANT QUESTIONS FOR RICK LAVIS OR ASST. SEC. GERARD:

Since I've been a member of Congress, one of the most time-consuming problem areas I have had to deal with is the matter of allocation of Johnson O'Malley Basic Support monies to South Dakota public schools that educate Indian children. There are some specific questions I have about this process that I would like answered at this time:

On October 1th, I forwarded to Forrest Gerard letters from five South Dakota schools: Sisseton, Waubay, West River, White River, and McIntosh, explaining the JOB funding they were told they would be receiving for FY 1978. Their school year was already well on its way and they still had no word on where their JOM allocation was.

On November 28th, we still had no answer in writing, so I wrote to Rick Lavis, assistant to Mr. Gerard, although we had heard by telephone that the allocations would be going out "any day".

Finally, on December 22, I received a written reply to my November 28th letter, explaining that 50% of the last JOM allocation would be released to the Area Offices by December 30th.

On December 30th, I understand those funds were in the Area Offices. However, at that time, the Aberdeen Area Office refused to release that JOM money to the schools because it had not received official notice that the 70% Indian enrollment requirement had been waived for five of our S.D. schools.

Finally, on January 19th, I received a short note from Mr. Gerard, outlining the same information I received from Mr. Demmert on December 22nd. However, it is my understanding that not all 27 of the JOM schools nationwide had received their 50% allocation yet. This is at least six months later than these schools needed to receive that funding.

1.) Why are there such delays in responding to schools that request answers regarding money they should have received months earlier? What is being done to ensure that such problems won't happen in the future in this and other programs?

2.) Why will the BIA not honor a written commitment for $100,000 to the Waubay Public Schools? I have here in my hand a copy of a teletyped letter which was signed by Theodore Krenzke, who still works for the BIA here in Washington, which authorizes the Area Office to provide the Waubay Schools with $100,000 total for FY 78 JOM allocations. In the last communication I received from the BIA, Waubay was allocated $50,000--or one-half of the money they were commited to receive--on the same basis as the other JOM schools. Waubay is the only school that received a promise, in writing, from the BIA for FY 78 funding. Why is this commitment not being honored? (The school budgeted on the belief that it could honor this commitment from the BIA?)

Along these same lines, why did Waubay not receive their final 1977 JOM payment until December of 1977. This should have been taken care of back in 1976. Our schools cannot operate on such uncertain terms about funding. What is being done to prevent this kind of tardiness in payment in the future?

3.) Part of our problem in this area again has been the seeming lack of communication between the Aberdeen Area Office and the BIA here in Washington. What is being done to improve your inner office relations? What can we do to prevent Indian children from being penalized, by lessening the quality of their education possibilities, because of inner-departmental problems within the BIA? (I might also add this hinders the improvement of Indian-non-Indian relations in many areas.)

Mr. **Pressler.** Those last questions are ones that may have been addressed here, but I don't know how to handle the specific questions. If we could go through these one at a time here, or I will submit them and you can provide written answers. I know you can't possibly know this information off the top of your head.

Mr. **Lavis.** I do have answers to these questions, except for the latter ones; I would like to discuss.

Mr. **Pressler.** Good.

Mr. **Lavis.** If you want to proceed with the questions.

Mr. **Pressler.** I will start off—here is how I went through this exchange of letters and the first question, I guess, was, Why are there such delays in responding to philosophical questions? I think that is the first one that is specific.

Mr. **Lavis.** I think, Congressman, it might be helpful if I give you a little background.

I met with your staff and the delegation when I first came on board and let me give you the background of what was the problem in terms of delay here.

Normally, probably it would not have happened under some circumstances, but this was an administrative situation. Following the decision of the Congress in fiscal year 1978 that allocated an additional $1.9 million for Johnson-O'Malley Act basic support in addition to what would have been the basic phaseout for operational costs, one of the problems that the Bureau had to address is: How do we allocate that money, on what basis do we allocate that money?

Mr. Scott of our staff spent a great deal of time with all those schools and with the area offices, including Aberdeen, to gather information on which to base the decision of how much money is to be allocated. That also involved a check of, or at least an advice-and-consent kind of operation with the House and the Senate staff members, and the appropriations side, so that they clearly understood the basis on which we would provide the Johnson-O'Malley Act support, because it is an issue that they have raised on many occasions:

What is the basis? What is the formula? How do you arrive at basic need? Et cetera.

I came on board around October and that is one of the issues I inherited and a great deal of staff work had to go into it, before we could make a decision on how to do it. The final decision, or compromise—we had a number of options on which to proceed on the allocation of money. We are backing up against the middle of the school year; we are very concerned about some of those schools, especially South Dakota, and we decided to allocate immediately to 50 percent.

Then they also said that we would then audit all schools nationwide to see whether or not their need of their allocation was in conformance with the regulations in terms of basic need.

Those audits are completed as early as possible and 50 percent allocated.

In regard to Waubay, I gather what happened, they cut the 50 percent of the Waubay. My decision initially was that that was a written commitment; we would honor it in full, and I intended to see that it was honored in full. It was not my intent to cut that by 50 percent, but I guess they applied that.

Mr. **Pressler**. So, should Waubay expect to receive $100,000?

Mr. **Lavis**. Yes, sir.

Mr. **Pressler**. Now when could Wauby realistically expect that?

Mr. **Lavis**. I would think we could do that within the next 14 days, Congressman.

Mr. **Pressler**. Good. I think that would make the people out there very happy.

Mr. **Lavis**. Yes; I am sure it would.

Mr. **Pressler**. Let's see, that would take care of the Waubay problem there.

I guess you have gone through the question about why there are such delays and so forth.

I have so many questions here that I forget the ones that require a specific answer. With regard to the question between the Aberdeen area office and the communications problem which seems to be between the Aberdeen area and here in Washington—do you want to comment on that?

Mr. **Lavis**. Well, I think the problem there, Congressman, is that of the staff members assigned that responsibility for Johnson-O'Malley. Mr. Scott has also bilingual, bicultural, special education for handicapped, as well as Johnson-O'Malley, and this is a part and parcel of the problem we face in education in the Bureau. I think that is probably the problem.

I think that one problem was that we neglected to deal with the waiver as quickly as we should, and that goes through the cracks. I know that the waiver has been approved, so I think the problem was staff manpower and the numerous other responsibilities that Mr. Scott has.

Mr. **Pressler**. Now these numerous questions about the educational vacancies in the Aberdeen area office—and, again, I know we have discussed those in previous committee hearings, the difficulty of filling the vacancies and the teaching positions—but in terms of how many education vacancies there are in the Aberdeen area——

Mr. **Lavis**. Yes, sir. No, we were asked that question previously. That is the only area we do not have a report from. We will provide that for you.

Mr. **Pressler**. All right.

Mr. **Pressler**. I am very pleased with the answer on Waubay and now can I tell the folks out there that?

Mr. **Lavis**. Yes, sir.

Mr. **Pressler**. OK. I will put my reputation on the line.

Mr. **Lavis**. I am putting mine on the line, too.

Mr. **Pressler**. But I think that maybe with a little bit of assistance here I have covered all of these questions adequately. I think that pretty much covers it.

Mr. **Lavis**. If you would like formal responses to those questions, Congressman, we will provide that, unless this dialogue is sufficient.

Mr. **Pressler**. This dialog helps. I guess the one that concerns us, Where is education on the list of priorities in the BIA?—maybe you have already covered that this afternoon. That is as much a philosophical question—it should not be philosophical; it should be practical. Maybe you can take a crack at that one?

Mr. **Lavis.** It represents, at least in terms of dollars, the major portion of our budget. We consider it very critical to the best interests of the Indian community. That is a priority.

Mr. **Pressler.** What is the future of education services in the Aberdeen area office?

Mr. **Lavis.** Congressman, that is a tough question for us to answer here. I don't know.

We can provide you, I think, something on the record for that, if you would like us to respond.

I assume that you are having some difficulties with the area office; is that correct?

Mr. **Pressler.** What assistance is being offered by the BIA here in Washington to Aberdeen office officials so our educational needs can best be served?

Mr. **Lavis.** I think the reorganization task force will complete its official work before going into session to develop its recommendations. I am not sure of all the ramifications that that imposes for education.

If you would like us to respond at the appropriate time, we would be happy to.

Mr. **Pressler.** Now, let's see. Why didn't Waubay receive their final 1977 payment in December of 1977?

Mr. **Lavis.** Congressman, I don't have the answer to that. I will provide it to you.

[The material referred to above follows:]

Permanent Classroom Positions—Bureau of Indian Affairs (February 17, 1978)

	No. of Positions	No. of Vacant	Avg. Length of Vacancy	Explanation on Figure Changes
Aberdeen	246	17	6 mos	Erroneous figure on 1st. report of 41 vacancies included other than classroom teachers.
Abluquerque	231	36	2 mos	
Anadarko	96	7	3 mos	Erroneous figure on 1st report of 13 vacancies included 6 RIF positions @ Chilocco School.
Eastern Area	201	2	3 mos	Erroneous figure on 1st report of 19 vacancies included all vacancies occurrine since school opened.
Juneau	208	4	3 mos	Original figure of 6 vacancies included 2 anticipated vacancies, due to housing problems.
Muskogee	39	6	3 mos	
Navajo	903	42	4 mos	
Phoenix	504	30	2 mos	
Portland	27	6	3 mos	Erroneous figure on 1st report of 5 should have been 6.
Total	2,491	150	3 mos	

Permanent Classroom Positions--Bureau of Indian Affairs (February 17, 1978)

	No. Vacancies Developed Since School Yr. Opened	No. Vacant all School Year
Aberdeen	7	10
Albuquerque	34	2
Anadarko	2	5
Eastern Area	0	2
Juneau	3	1
Muskogee	2	4
Navajo	5	37
Phoenix	20	10
Portland	5	1
Total	78	72

MEMO: TO LP
FROM: GERRI
RE:
House Advisory Group on Indian Education
and
Continuing Hearings on H.R 9810

1:00 P.M., Room 2257 - Rayburn, Thursday, February 9th

Today [illegible] witness testifying . [illegible] Mr. [illegible] Gerard
. Assistant Secretary for Indian Affairs, BIA.

At an earlier hearing, you asked BIA officials some questions that still have unclear answers: those questions should be asked of Mr Gerard today:

1.) Where is Education in the list of priorities in the BIA?

2.) What is the future of Education services in the Aberdeen Area Office? When BIA reorganization is discussed, what action is being planned to improve the communications and technical assistance offered by the BIA here in Washington to the Aberdeen Area BIA officials so our education needs can best be served?

3) How many education vacancies are there in the Aberdeen Area? How many teaching positions and administration positions are currently unfilled? (This is a major problem in Indian schools nationwide.) What is the BIA doing to fill those positions?

What is the average time that an education position remains Vacant?

**IMPORTANT QUESTIONS:

Since I've been a member of Congress, one of the most time-consuming problem areas I have had to deal with is the matter of allocation of Johnson O'Malley Basic Support monies to South Dakota public schools that education Indian children. There are some specific questions I have about this problems that I would like answers at this time

On October 5th, I forwarded to Forrest Gerard letters from five South Dakota schools: Sisseton, W[illegible]y, West River, White River, and McIntosh, explaining the JOM funding they were told they would be receiving for FY 1978. Their school year was already well on its way and they still had no word on where their JOM allocation was.

On November 24th, we still had no answer in writing, so I wrote to Rick Lavis, an assistant to Mr. Gerard, although we had heard by telephone that the allocations would be going out "any day".

Finally, on December 22, I received a written reply to my November 24th letter, explaining that 50% of the last JOM allocation to those schools would be released to the Area [illegible]ces by December 30th.

On December 30th, I understand those funds were in the Area Offices. However, at that time, the Aberdeen Area Office refused to release that JOM money to the schools because it had not received official notice that the 70% Indian enrollment requirement had been waived for five of our South Dakota schools.

Finally, on January 19th, I received a short note from Mr. Gerard, outlining the same information I recieved from Dr. Demmert. However, it is my understanding that not all 27 of the JOM schools nationwide had received their 50% allocation yet. This is at least six months later than these schools needed to receive this funding.

1.) Why are their such delays in responding to schools that request answers regarding money they should have received months earlier? What is being done to ensure that such problems won't occur in the future in this and other programs?

2.) Why will the BIA not honor a written commitment for $100,000 to the Waubay Public Schools. I have here in my hand a copy of a teletyped letter which was signed by Theodore Krenzke, who still works for the BIA here in Washington, which authorizes the Area Office to provide the Waubay Schools with $100,000 total for FY 75 JOM allocations. In the last communication I received from the BIA, Waubay was allocated $50,000--or one-half of the money they were commited to receive--on the same basis as the other JOM schools. Waubay is the only school that received a promise, in writing, from the BIA for FY 78 funding. Why is this commitment not being honored. (The school budgeted on the belief that it could honor this commitment from the BIA?)

Along those same lines, why did Waubay not receive their final 1977 JOM payment until December of 1977. This should have been taken care of back in 1976. Our schools cannot operate on such uncertain terms about funding. What is being done to prevent this kind of tardiness in payment in the future?

3.) Part of our problem in this area again has been the seeming lack of communication between the Aberdeen Area Office and the BIA here in Washington. What is being done to improve your inner office relations? What can we do to prevent Indian children from being penalized, by lessening the quality of their education sibilities, because of inner-departmental problems within the BIA? (I might also add this hinders the improvement of Indian-non-Indian relations in many areas also.)

Mr. Pressler. Good. I think we have gotten some satisfactory answers and I thank you very much.

Mr. Lavis. Thank you, Congressman.

Mr. Pressler. Now could the record be left open for any written questions that the subcommittee might have?

Is Chairman Blouin coming back?

Mr. Lovesee. No, sir, Mr. Congressman.

We are continuing for clarification of the record.

Mr. Pressler. Thank you.

I thank the witnesses for the fine testimony and for the hard work, obviously, that you are doing struggling with these issues, as we are struggling too.

Mr. Lavis. Thank you, Congressman. I appreciate that very much.

Mr. Lovesee. If I may continue then, I again make the statement that we are in the spirit of clarification, asking some questions with regard to the Bureau's written statement, and certainly not from the intent to pin anyone into a particular position.

I have a question about the task force which is currently coming up with recommendations for the Bureau of Indian Affairs:

No. 1, Do you feel that the task force, as is currently composed and as is currently mandated, and which is to go out of business here in a couple of months under a limited number of meetings and limited staff and field, will make recommendations which the Secretary is committed to carry out?

And, second of all, will these recommendations be circulated in the field for comment?

Mr. Lavis. The response to the latter question is absolutely. We consider this a very critical effort for any self-determination and we would not have time to impose changes in the Bureau unless we had concurrence and understanding from the Indian community of those changes.

There are numerous questions daily on the scope of those recommendations and the direction they are going. In terms of carrying out the mandate, it is my understanding that the recommendations of the task force will be submitted to the Assistant Secretary for Indian Affairs and they will proceed to discuss those recommendations for submission or for further staff, whatever the case may be.

Mr. Lovesee. Do you anticipate the task force will be allowed to continue as a continuing advocate for Indian positions?

Mr. Lavis. I cannot comment on that at this time. I really don't know what the plans are, no.

Mr. Lovesee. Would you be able, at this time, to make a statement as to how long the recommendations will be circulated in the field, prior to certification?

Mr. Lavis. No, sir; I don't think that is in my prerogative to indicate how long they would be in the field for comment.

Mr. Lovesee. Going to the statement, specifically, you mentioned one of the specific problems—again, "you" being the official representative of the Bureau——

Mr. Lavis. Yes, sir.

Mr. Lovesee [continuing]. One of the specific problems being the sections which deal with the direct funding and formula funding.

Are you aware that this program was initiated within the Bureau in response to appropriations report language which said it was to be in place and functioning by fiscal year 1978? If so, do you anticipate any problem with—I realize fiscal year 1978 has come and gone —but do you anticipate any problems with putting such a system into the field in conjunction with that?

Mr. **Lavis.** To be very honest—well, let me answer it this way:

We have just received an initial report on that effort. I have not seen it and I really can't comment on it, and I am unsure in my own mind in terms of what that involves. I understand that is what the case is, and how it is to be applied and that is something to be relatively new to me, and I am not at this point able to comment.

Mr. **Lovesee.** We would certainly be willing to supply you with the report language.

Mr. **Lavis.** I understand the report language exists. I have no problem with that, and I understand that we are under mandate to do it. Obviously, we didn't make it, but that is the implication. I can't comment on it.

Mr. **Lovesee.** The other questions that I have seem to deal with philosophy here. You are not saying the things which are in the bill should not be done; only that there is a question of whether new legislative authority is necessary.

Several times you state that the bill is not necessary because legislative authority already exists. I believe one place you state that legislative authority is not necessary because "this just tells us to do things which we are authorized to do." In other words, is it the philosophy that says we don't need legislation but it should be done?

Mr. **Lavis.** I think so, and I think it is a question of recognizing the relative priority of these particular mandates that you set out in H.R. 9810.

As I indicated in previous testimony here, I think we have to ask ourselves what the basics are here and how we proceed with those. It may well be that these issues are the basics. I am not satisfied in my own mind yet.

In terms of statutory authority, there really is no statutory authority for these, I think, for example, your management information system is one that has been addressed within the Bureau and continues to be addressed; and I think we are making some progress with that, not as fast as we would like but those issues are attempting to do so.

So I think basically I would agree with you, my philosophy is, yes, we should be doing some of these things; no, I am not sure what form we ought to be taking, whether there are other things we ought to be doing prior to taking care of these things.

I think the thing we fear is that you mandate this structure under the time-frames that you set out for publishing regulations for carrying out the fact, whether or not that will impose something on us which is not appropriate in terms of things we ought to be doing prior to getting to that.

There are a lot of management questions here.

Mr. **Lovesee.** Then is this more a matter of timing than it is a matter of legislating? One of our problems is a lack of what we would perceive to be stability—seven major reorganizations in the past decade. I know from my trip out in the field that the people in the lower echelons have their time with their hands over their heads protecting themselves from fallout.

Our question is: Do you have a problem with legislating for stability once you have arrived at what these systems should be?

Mr. Lavis. That is possible. I agree with you, the stability factor, or the instability factor—the organizations, you know, from my own personal opinion—I am not representing the Bureau at this point—I don't think this Bureau needs another reorganization. I think it is the last thing we need, actually.

What I sense, however, is that it was just taking care of some very sound, basic management steps. For example, our manual for education has not been updated since 1959. There are lots of examples like that around the Bureau and we have to deal with those kinds of issues.

There are examples of strong management leadership in the Bureau. For example, it takes four people to manage law enforcement standards throughout this country—four people because those standards are set out very clearly and you have to march to that drum and you can be held accountable for it, and we cannot hold accountable in many cases what we want in special education because we have not addressed those kinds of issues. Simple basics.

Mr. Lovesee. Would you not have the same problem with what you perceive to be a reorganization in 9810? I think when it was initially set out and put down on paper, it was more from the standpoint of setting policies which had to be followed. I think in the doing of it the advisory group gradually established methods by which those policies would be done, which is maybe like a horse and carriage; you cannot have one without the other.

Do you think that the Congress has abdicated its responsibility from the standpoint of establishing policies which the Bureau can then follow?

Mr. Lavis. That is a tough question and I had a great deal of faith in the Bureau, given some strong leadership, to address those issues.

As you know, we can establish a disciplined organization through our manualization process, the regulations, because we have broad regulatory authority. Internally, in terms of developing those things, I think Dr. Demmert's efforts to codify or put in certain things governing education are a step in the direction we are trying to go.

On the other hand, I am sure there are areas in which it probably would be necessary to have statutory authority to proceed.

I am sort of torn between two schools of thought here, and I am not sufficiently experienced with the Bureau and how it operates, especially in the field, to comment intelligently whether statutory support is the answer.

Mr. Lovesee. I have two questions here that we are interested in getting on the record, and the one question that you may answer in writing:

What steps have been taken by the Bureau to obtain Indian input on the BIA positions to be taken with regard to this bill? Has input been solicited? Has the bill been passed around? Have information packets or information requests been honored?

Mr. Lavis. My experience, in the short time I have been here, I don't think that occurred. It may well have happened earlier on when we first started the legislative effort.

Bill, have you done anything on that?

Mr. Demmert. Not on 9810, specifically, no.

Mr. Lavis. I did ask the area directors to comment on it prior to my appearance here.

Mr. Lovesee. Yes, I am aware of that particular telegram.

Are there any reasons within the Bureau not to solicit Indian input on their positions within the bill, or do they regard this as an in-house matter?

Mr. Lavis. Do I consider it an in-house matter?

Mr. Lovesee. I am talking about the Bureau, specifically.

Mr. Lavis. At the moment there are no plans, no, sir.

Mr. Lovesee. The second question: Has there been any change that you are aware of with respect to the Bureau policy regarding congressional access to program people?

The question comes about because there seems to be, by way of the moccasin telegraph, some question as to restriction of access to people that we have normally had access to.

Mr. Lavis. No, sir.

Mr. Lovesee. So we may say that as Bureau policy there is no restriction?

Mr. Lavis. I believe the question was whether there was a policy change. I know of no restrictions on access to program people.

Mr. Lovesee. This is the question that you may want to submit in writing, because it may take a little longer to answer: we would like your impression on what the Indian Self-Determination Act means with respect to Bureau functions and how do you feel it affects local input and control, especially with respect to Bureau schools—I assume you can get a copy of this from the transcript—both from the standpoint of tribal input and control. Also, what are your ideas of it with respect to the Bureau policy for contracting? If it is Bureau policy to encourage self-determination through contracting, would you answer some of the problems that have been brought up from the field: (1) the contracting of a program and then the phasing out of BIA support for that program; (2) the entering into of contracts and then the unilateral modification of those contracts, usually with respect to indirect support fund cost; or (3) what sometimes appears to be an incestuous relationship between contractor programs and other things that the tribes may have in mind, from the standpoint of one impacting on the other.

Some people feel there is a chilling effect because if the tribal contracts a particular service, it may not get the same level of other services in another area. Especially, I am aware of the Crow Tribes relation with the Billings office. If you would get a copy of that and perhaps submit something in writing for the record, I think we certainly would appreciate it.

Mr. Lavis. Yes.

[The information follows:]

CHARTER FOR THE IMPLEMENTATION
OF THE GSA MANAGEMENT RECOMMENDATIONS ON
THE BUREAU OF INDIAN AFFAIRS SCHOOL
CONSTRUCTION AND MAINTENANCE PROGRAM

1. **Purpose**: This Charter:

   a. Classifies the implementation of the GSA report recommendations as an important program for the Secretary's interest and as such requires management procedures outlined below.

   b. Assigns a Program Manager, provides a brief project scope, project goals, operating relationships, organization, resources and delineates the authority and responsibility of the Program Manager.

2. **Applicability**: The provisions of this Charter apply to all organizational elements of the Department of the Interior including all field locations for the execution, upon request of the Program Manager, of specific responsibilities necessary for the accomplishment of this program.

3. **Action**:

   a. Mr. Richard C. Steele of the GSA is hereby assigned as Program Manager for the development of the implementation program. The Program Manager will report to and be organizationally responsible to an implementation steering committee composed of the Assistant Secretary for Indian Affairs and the Assistant Secretary for Policy, Budget and Administration.

   b. The Assistant Secretary for Policy, Budget and Administration will provide the necessary organizational, administrative, planning, programming and cost management support which shall be required for the purpose of supplying overall Department of the Interior coordination.

   c. All organizational elements of the Department of the Interior will support the Program Manager, as specified in this Charter for the implementation of this program.

4. **Program Description**:

   a. Schedule: Within 45 days of the signing of the Charter the Program Manager shall present to the Steering Committee a Program Implementation Master Plan. The plan shall detail all the goals and objectives of the program, assess the required resources and provide a schedule for program implementation. Once every 30 days the Program Manager shall present a written report on the progress of the program with recommended future action.

b. Outline of Program

(1) Planning and Funding

(a) Review of the proposed FY 79 construction, alteration and operation and maintenance budgets in line with the GSA findings.

(b) Development of a model project management plan for all new construction projects.

(c) A review and development of policy and procedures for funding projects on a lump sum project basis, both design and construction.

(d) Recommendations and programming information on the development of BIA management information system to provide top level management with accountable data on projects.

(e) Establish a program to develop a complete and accurate facility inventory.

(f) Establish a program for funding facilities alteration and repairs with credible inventories and categories of requirements.

(g) Development of standards of performance for building operation and maintenance and a funding system for building operation based on a cost per square foot.

(h) Establishment of policy and procedures to allow for an open and logical ranking of projects for construction.

(2) Design Activities

(a) Reevaluation of the functional requirements and the educational specifications towards a replacement by a Project Management Plan.

(b) Procedures and practices for including cost estimating and cost management techniques in all BIA contract and design activities.

(c) The inclusion of agreed to fixed schedules in all projects as outlined in a project management plan.

323

(d) A review of the impact of contracting out as a procedure and policy to implement a performance based design organization in the BIA.

(e) Identification and establishment of a program to train personnel in the management and administration of professional services contracts.

(f) Development of a program to provide an objective process for selection of professional services contracts which will accurately assess the firms capabilities to perform and consider past performance on previous projects.

(g) Development of a program to provide greater participation by Area Offices facility management personnel in the development and design criteria for facilities they will operate.

(3) Construction Activities

(a) Development of a technique to provide full time on-site construction inspection on all projects that exceed $1,000,000 in construction cost.

(b) A review of the Department of the Interior Contracting Officer relationships with a consideration of allowing limited on-site financial contract control.

(c) Development of clear responsibilities and guidelines for Contract Officers and on-site BIA construction inspection.

(d) A program to provide contract management and legal responsibility training to BIA construction personnel.

(e) Establishment of a technique for final inspections that will provide an evaluation of the facility for takeover by the owner and also an appraisal of the BIA contract administration on each project.

(f) Development of a viable third party A/E contract for inspection services that will allow for greater flexibility within the DFE offices.

(g) Development of a technique to control construction contracts that will standardize contract administration.

(h) Establishment of a fixed BIA policy on a construction control and management system to insure proper monitoring and control of projects.

(4) Facilities Management

(a) Develop a policy and procedure that will allow facility management personnel to be placed under the supervision of school principals for daily operation. Concurrently, develop a policy that will allow the facility management personnel to control the program through procedures and standards while evaluating performance at local schools.

(b) Review the activities of the Central Office facility management and Area Office facility managers to establish a monitoring and control system in line with an inspection and management control technique.

(c) Develop a program to provide for compilation of a facility inventory along with a repair and alteration backlog inventory.

(d) Establish a systematic process whereby boilers and pressure vessels inspections can be provided on a regular basis.

(e) Develop a procedure for establishing a fixed guideline specification for use at all facilities when contracting for operating and maintenance service.

(f) Establish a program to monitor, evaluate and provide data on energy consumption and conservation.

(g) Establish a program that will allow for funding O&M funds based on operation performance standards and a cost per square foot to operate.

(5) General

(a) Establish a reorganization strategy for BIA that will allow greater flexibility.

(b) Establish a program of recommendations and proposed actions which the Assistant Secretary for Indian Affairs can implement to improve the relationships and commonality of mission for all members of BIA.

(c) Establish a program to review the impact of Indian preference.

(d) Other areas as requested by the Steering Committee.

5. Responsibilities and Authorities of the Program Manager:

a. General: The Program Manager is the DOI Central Office executive responsible for the successful management of the program and goals stated in this Charter. The Program Manager has broad directive authority within the scope of this program over the planning, direction, control and utilization of resources on the approved program. As the responsible executive, he is expected to act on his own initiative in matters affecting the program. In those cases where action is required beyond the authority granted through this Charter, he shall refer the action to the steering committee with his recommendations, including any alternatives.

b. Authorities: The Secretary and the steering committee hereby redelegate to the Program Manager authorities that are considered necessary for the completion of the program. However, prior approval of the steering committee will be required for:

(1) Deviation from established DOI policies.

(2) Final approval of the Program Implementation Plan.

(3) Change of any schedule specified by the steering committee.

(4) Approval of any change degrading objectives, performance or altering any operational characteristics of the program.

c. Responsibilities of other organizational elements of Department of the Interior

All organizational elements within DOI shall assist the Program Manager with services within their respective area of responsibility. Specifically, the Program Manager will maintain authority in the following areas:

(1) Approval of the Program Manager is required for all major changes affecting plans objectives, procurements, performances, schedules, and cost of contracts.

(2) All actions which result in changes in scope, terms time for completion and/or cost of contract shall be coordinated with and approved by the Program Manager.

(3) All actions which result in changes in the commitments in the approved implementation plan shall be coordinated by the Program Manager.

6. Specific Interface and Operating Relationships of the Program Manager:

a. The Program Manager is authorized direct contacts with all activities concerned with the program.

b. The Program Manager will maintain active liaison, as appropriate with cognizant members of the DOI staff. The Program Manager shall keep the Secretary and steering committee fully informed of the status and progress of the program through formal and informal relationships.

c. The Program Manager is responsible for coordinating program matters with DOI. He will keep the Secretary and the steering committee and other services currently informed of plans, requirements, status, and progress of the program and significant matters which affect, or tend to affect, their programs, plans, requirements or schedules thereof. Conversely, DOI managers are expected to keep the Program Manager informed of plans, requirements, status and progress of their programs which will tend to affect the readiness and support of the program. Where conflicts develop that cannot be resolved, the Program Manager will refer the matter to the steering committee for resolution.

d. The Program Manager will furnish to all participating organizations necessary current information on program plans and proposed changes in order that such organizations may update and keep current their detailed plans and functions for which they have responsibility, and will require participating organizations to keep him advised of the status and progress of the project work effort under their cognizance.

e. The Program Manager shall report in writing to the steering committee and appropriate management officials any pattern of failures affecting the program or its capability or related items in order that decisions regarding continued effort to fulfill requirements can be made to ensure economy, effectiveness and timeliness.

f. The Program Manager shall maintain a continuing review of operational requirements, including objectives established by higher authority for the program to ensure timeliness, accuracy, consistency, and compatibility with funds availability. When inconsistent and incompatible requirements and objectives cannot be resolved by the Program Manager, the problems and recommended resolutions shall be submitted to the steering committee for resolution.

7. Resource Assessment:

The Program Manager shall evaluate and document the effect of proposals to increase or decrease the resources authorized for the execution of the program and shall determine the effect of the proposed changes on approved costs, schedules, and performance objectives.

8. Charter Termination:

The Secretary of the Interior will terminate this Charter upon the successful completion of the program or when it no longer will be required for successful accomplishment of the program goals.

Date: ______________________

Title: Assistant Secretary for Indian Affairs

Name: ______________________

Date: ______________________

Title: Assistant Secretary for Policy, Budget and Administration

Name: ______________________

Date: ______________________

Title: Secretary of the Interior

Name: ______________________

INFORMATION REQUESTS INVOLVING EDUCATION

1. What is the official Bureau position with respect to:
   a) transfer of control of BIA schools to State or local public educational agency control?
   b) the Bureau's education goal and/or mission?
   c) the Bureau's interpretation of the intent and scope of the Indian Self-Determination and Education Assistance Act (P.L. 93-638)?

Answer

1-a. It is no longer the position of the Bureau to encourage or require Indian students to attend public schools nor to transfer Bureau schools to State control unless that is the desire of the Tribe(s) involved. The policy, as set forth in the Indian Self-Determination and Education Assistance Act, is one of Indian advocacy whereby the Bureau assists Indian Tribes in achieving the educational goals as determined by the Tribes, including student attendance at Bureau, public, tribally operated or sectarian schools.

1-b. Briefly, the Bureau's educational goal and/or mission is to 1) improve the academic achievement of Indian students, 2) retain and strengthen the Indian students' cultural base and identity, and 3) prepare the Indian student for a meaningful role as an adult in today's world.

1-c. The Bureau supports the intent and scope of the Indian Self-Determination and Education Assistance Act as spelled out in the preamble to the Act. This includes the obligation of the United States to respond to the strong expression of the Indian people for self determination by assuring maximum Indian participation in the direction of educational as well as other Federal services to Indian communities so as to render such services more responsive to the needs and desires of those communities.

2. Does the Bureau still encourage attendance at public schools wherever possible? Is the policy different for off-reservation boarding schools?

Answer

The answer to this question is fully reflected in the answer to number 1-a above.

3. How many students are currently in on-reservation boarding schools? ....Off reservation boarding schools?...BIA day schools?...schools operated under contract (P.L. 93-638 or J.O.M.)?

Answer

Current on-reservation boarding school enrollment:	20,676
Current off-reservation boarding school enrollment:	8,278
Current Bureau day school enrollment:	12,658
Current Bureau contract school enrollment: (including day/boarding)	5,538

4. What is the population breakdown by student age and grade in on-reservation boarding schools?...off-reservation boarding schools?... schools located on the Navajo reservation?

Answer

The Bureau does not have a breakout by the student age, but we are able to provide the talley sheets with the student grade (see attached).

5. What has been the student population trend over the last five years? Has any area shown disproportionate deviation from this normal trend?

Answer

5-a. Based on data collected between 1974-1977, there has been a 12% drop in enrollment for BIA schools. This includes day schools, boarding schools and dormitories operated by the Bureau. In 1974 there were 49,524 A.D.M.s; in 1977 there were 43,706 A.D.M.s---a net drop of 5,818 or 12%. There are three schools, however, that have encountered particular problems that have caused rather major reductions in their enrollments.

Chemawa - Portland Area: Chemawa has been undergoing a major construction and reorganization program. This program was required because of the extreme deterioration of the facilities. Consequently, it has temporarily had a drastic impact on the program and student enrollment at the school.

Chilocco - Anadarko Area: Recognizing that Chilocco was having problems with their program, a complete needs analysis was undertaken. This analysis indicated that the program was inappropriate for the majority of the students attending the school. From this determination it was decided that a vocational program would be more appropriate.

Therefore, Chilocco has been undergoing a total program revision which has resulted in temporary changes in the enrollment.

Riverside - Anadarko Area: The dormitories at Riverside are out of repair and unsuitable for student occupancy. With the completion of the new dorms, student enrollment is expected to increase.

5-b. In general, each Areas' contract schools went up in enrollment between 1974-1977. Although there has been a drop in boarding school enrollment, there has been an increase in day school enrollment which somewhat offsets boarding school drop.

Figures below represent trends in two categories:
1) All BIA Boarding Schools
2) Contract Boarding Schools

6. What has been the student "per capita expenditure" trend over the last five years?

Answer

We are providing two charts (Table 12 and Table 13) from a recent report entitled "Funding Schools Run by the Bureau of Indian Affairs" that reveal education expenditures per pupil for all BIA and Contract Schools for Fiscal Year 1975 through 1977. The information is being developed for 1974 but a change in reporting forms during that fiscal year resulted in complexities in interpretation of the data. Although not immediately available, we anticipate receiving it in the near future. If the information is needed, we will be happy to supply it.

7. Is there a short, easily understood administrative description of the Bureau? Please include a copy.

Answer

The official description of the Bureau available is the Departmental Manual, Part 130, which is enclosed.

Department of the Interior

DEPARTMENTAL MANUAL

Organization Part 130 Bureau of Indian Affairs

Chapter 1 Creation, Objectives, and Functions 130.1.1

.1 Creation. The Bureau of Indian Affairs was created in the War Department in 1824 and in 1849 was transferred to the Department of the Interior. The Snyder Act of 1921 (42 Stat. 208; 25 U.S.C. 13) provided substantive law for appropriations covering the conduct of activities by the Bureau of Indian Affairs. The scope and character of the authorizations contained in this Act were broadened by the Indian Reorganization Act of 1934 (48 Stat. 984; 25 U.S.C. 461 *et seq.*) and by the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450). The authority of the Commissioner of Indian Affairs as delegated to him by the Secretary of the Interior is set forth in Parts 205 and 230 of the Departmental Manual. The authority of subordinate officers and employees as redelegated by the Commissioner or as redelegated by others in the Bureau is set forth in the Bureau of Indian Affairs Manual or in addenda thereto.

.2 Objectives. The principal objectives of the Bureau are to actively encourage and train Indian and Alaska Native people to manage their own affairs under the trust relationship to the Federal Government; to facilitate, with maximum involvement of Indian and Alaska Native people, full development of their human and natural resource potentials; to mobilize all public and private aids to the advancement of Indian and Alaska Native people for use by them; and to utilize the skill and capabilities of Indian and Alaska Native people in the direction and management of programs for their benefit.

.3 Functions. The major functions of the Bureau through which its objectives are to be achieved include the following:

A. The Bureau works with Indian and Alaska Native people, other Federal agencies, state and local government and other interested groups in the development and implementation of effective programs for the advancement of Indian and Alaska Native people.

B. The Bureau, in cooperation with Indian and Alaska Native people, seeks for them adequate educational opportunities in public education systems, assists them in the creation and management of educational systems for their own benefit, or provides from Federal resources the educational systems needed.

C. The Bureau actively promotes the improvement of the social welfare of Indian and Alaska Native people by working with them to obtain needed social and community development programs and by providing programs of community service which are needed and desired by them.

D. The Bureau works with Indian and Alaska Native people in the development and implementation of programs for their economic advancement and for full utilization of their natural resources consistent with the principles of resource conservation.

E. The Bureau acts as trustee for Indian and Alaska Native lands and monies held in trust by the United States, assisting them to realize maximum benefits from such resources.

.1 Overall Organization. The overall organization of the Bureau of Indian Affairs consists of a headquarters in Washington, D. C., Area offices, and subordinate field installations located throughout the country. The Commissioner of Indian Affairs is the chief executive of the Bureau. Each Area office is under the supervision of an Area Director who also supervises several field installations.

.2 Headquarters Organization. The Bureau headquarters consists of the Office of the Commissioner, which includes five component organizational units as described below; four mission-oriented program offices as described in Chapters 3 through 6; and one administrative support office as described in Chapter 7. Day-to-day operations are carried on by the Bureau's Area and other field offices.

The functions of the headquarters organizational components are to assist the Commissioner in the exercise of management control over the operation of the Bureau. Specifically, the Central Office components: (1) coordinate and assist in the development of Bureauwide policies, programs, budgets, and justifications; (2) develop Bureauwide legislative programs and reports; (3) carry on liaison with other Federal agencies and national Indian organizations regarding Indian programs and needs; (4) monitor and evaluate the performance of the field establishment; (5) participate in periodic and special management and program reviews of field operations; and (6) advise the Commissioner on Bureau programs, policy matters and regulations, and on specific items or cases.

.3 Office of the Commissioner. The Commissioner of Indian Affairs establishes policies, directs total operations, and represents the Bureau in dealings with Congress, the Department, other Federal agencies, the Indian people, and the public. He is assisted in these functions, particularly in the internal management of the Bureau, by a Deputy Commissioner; and by Assistants to the Commissioner who perform a variety of tasks which require focus within the immediate Office of the Commissioner.

A. The Congressional and Legislative Affairs Staff reviews and coordinates all legislative development and congressional relations activities of the Bureau. It provides legislative research and staff assistance in planning, developing, and drafting legislation. It reviews and analyzes the legislative needs of the Bureau and tribes, and prepares and reports on legislative proposals affecting Indians and Indian tribes as well as Bureau operations.

B. The Intergovernmental Relations Staff serves as a coordination point for liaison with other Federal agencies at the national and regional council level and the national headquarters of organizations of State and local government officials in order to promote active consideration of the needs of Indian people in the administration of Federal programs. It identifies and maintains information on Federal financial and technical resources available to Indian people. It serves as the focal point in the Bureau for international Indian affairs. It also serves as a focal point for developing information for the Indian people on the availability of Federal assistance programs, the eligibility requirements and the benefits to be received from the programs.

C. The Policy Planning Staff at the direction of the Commissioner, develops and defines the Bureau's mission, policies and objectives including developing long range plans and objectives in coordination with Bureau activities such as legislation, budget, and evaluation processes; identifies strategic problems requiring resolution or study; develops Bureauwide forecasts and innovative planning for future Bureau requirements and needs; performs special studies and evaluations to insure that the Bureau's mission, policies and objectives reflect the future needs of the Indian people and the Bureau.

The Office, in coordination with Central and Area Offices, identifies Bureauwide management information requirements; develops and maintains a time phased BIA Management Information Plan designed to meet these validated information requirements. Monitors, in coordination with Central and Area Offices, the development, support, and implementation of automated and non-automated management information systems, advising the Commissioner of their adequacy and status and recommending adjustments as necessary, to meet requirements of the BIA Management Information Plan.

D. The Public Information Staff maintains liaison with the media, the public, and other Federal and State agencies. It prepares speeches and articles for key officials in the Bureau, news releases on major developments, general publications, and audio-visual materials in support of the Bureau's mission; and special materials as required to provide closer and more timely communication with Indian groups. It prepares special material to be used as correspondence aids in answering repetitive public inquiries on current and historic issues. The Public Information Staff is headed by a Chief of Public Information who reports directly to the Commissioner of Indian Affairs. The staff serves as information consultants to other top officials of the Bureau. The Office maintains a functional relationship with the Office of Communications, Department of the Interior and with all public information related activities in the Bureau.

E. The Indian Self-Determination Staff, at the direction of the Commissioner, serves as the coordination point for implementation of the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450) within the Bureau. It provides guidance coordination, direction, and cohesion to all Bureau efforts related to the Act. It serves as the focal point in the Bureau for action on matters related to the Act which require the Commissioner's attention. It identifies and defines problem areas, determines issues to be resolved, monitors implementation activities, and recommends modifications in present Bureau policies, procedures, systems, and structure required in order for the Bureau to respond to tribes which wish to take advantage of the Act.

.1 The Office of Indian Services is responsible for providing staff support to the Commissioner in the development and management of Bureau programs designed to promote the welfare and development of individual Indians and Indian communities, to assist tribes in developing local governmental services for Indian Communities, and to assist tribes in developing their capabilities for self-government. These programs include Social Services, Housing, Law Enforcement, Tribal Government, and Tribal Planning.

The Office of Indian Services plans, develops, monitors, and evaluates programs, policies, standards, procedures, and feedback systems for its assigned programs; participates in the allocation of Bureau resources for respective program operations; and makes recommendations to the Commissioner for necessary changes or adjustments in the program and in its implementation.

A. The Division of Housing Services provides staff assistance to the Director regarding Bureau programs to provide and improve housing for Indians in Indian areas. The Division also maintains liaison with the Central Office of the Department of Housing and Urban Development on housing and other HUD programs to achieve the greatest possible potential benefits to Indians and their communities. In addition, the Division maintains liaison with the central office of the Indian Health Service to assure the coordination of the sanitation facilities construction program with the housing construction and improvement programs in Indian areas.

B. The Division of Law Enforcement Services provides staff assistance to the Director in carrying out the Commissioner's responsibilities for policy direction, coordination, and support for Bureau Law Enforcement programs; prescribing standards and criteria for the selection, training, and duties of law enforcement officers. This includes programs related to enforcement of trading regulations, enforcement of hunting and fishing regulations, and the coordination of such programs with the central offices of other agencies. The Division is also responsible for inspecting and evaluating BIA funded law enforcement programs. In addition, the Division will provide administrative supervision for the nucleus staff of the Special Operations Service Unit (a specially trained, emergency police force) located at the U.S. Indian Police Training and Research Center, Brigham City, Utah.

C. The Division of Social Services provides staff assistance to the Director regarding Bureau programs designed to provide Social Services to assist Indians and Indian Communities in coping with social problems and to better utilize and develop community resources. The programs include financial assistance for needy Indians living on reservations; arranging foster care for dependent, neglected and handicapped Indian children; referral of Indians to local and State agencies for assistance where appropriate; prevention services in both adult and juvenile crime; both individual and family counseling services; community organizational services to improve the lives of Indian people; and assistance to tribes in the development of tribal social services programs and tribal work experience programs for employable recipients of assistance.

D. The Division of Tribal Governmental Services provides staff assistance to the Director regarding Bureau programs relating to tribal special services, tribal management services, and tribal enrollment services. This involves providing advice and assistance in areas of tribal judicial systems, tribal grants administration capability, tribal government activities and procedures, Indian Claims Commission and U.S. Court of Claims judgments, tribal and judgment rolls, and enrollment appeals requiring action by the Commissioner or the Secretary of the Interior.

E. The Division of Tribal Planning Services provides staff assistance to the Director in providing guidelines to generate inherent tribal long-range and program planning capability. It provides staff leadership in the development, programming and funding of comprehensive plans reflecting the socio-economic and other needs as stated by individual tribal communities. It provides technical direction through the Director of Indian Services to field personnel who provide direct planning services to Indian tribal plans. Also provides advice, and assistance in the area of agricultural extension services.

F. The Division of Self-Determination Services provides staff assistance to the Director in carrying out the responsibilities for coordination, support, and provision of training and technical assistance which is made available to tribal and Bureau staff in support of Title I of the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450). The Division develops procedures for and provides technical assistance in activities related to the Act, particularly in the administration of grants for improvement of tribal governments as authorized in 88 Stat. 2203 (25 U.S.C. 450). The Division is also responsible for monitoring for compliance with programmatic guidelines the training, technical assistance, and grants activities undertaken by the Bureau.

.1 The Office of Tribal Resources Development is responsible for providing staff support to the Commissioner in the development and management of Bureau programs to provide technical and financial assistance to enhance the economic development of Indian reservations and their people. The Office includes programs designed to assist Indian tribal organizations and individuals in (1) business enterprise development, with strong emphasis on Indian ownership and entrepreneurship; (2) securing credit and financing from conventional and governmental sources to finance all sorts of Indian economic self-development, including loans for resources and business development, housing, public utility facilities, education, and other purposes; (3) qualifying for, finding, and occupying jobs both on and off reservation, consistent with the needs, capabilities, and aspirations of Indians; and (4) providing management and technical services associated with roads construction and maintenance programs.

The Office of Tribal Resources Development plans, develops, monitors, and evaluates programs, policies, standards, procedures, and feedback systems for its assigned programs; participates in the allocation of Bureau resources for respective program operations; and makes recommendations to the Commissioner for necessary changes or adjustments in the program and in its implementation.

A. The Division of Indian Business Enterprise, provides staff assistance to the Director regarding Bureau activities designed to assist the Indians in business enterprise development on Indian reservations. This is encouraged and assisted through various programs of technical and financial aid including but not limited to: (1) assistance in the development of specific commercial and industrial enterprises with emphasis on Indian ownership, entrepreneurship, and employment; (2) specialized assistance to identify, evaluate and publicize Indian enterprise development opportunities and Indian commercial and industrial resources potentials; (3) professional guidance in business enterprise development, planning and management counseling; (4) inducement of manufacturers and businessmen to locate on or near reservation areas; (5) assistance in development of resource oriented agricultural, mineral and other facilities; (6) economic research and technical assistance such as market analyses, feasibility determinations, short and long-range business development plans, and reservation resources inventories of natural, human and capital assets.

B. The Division of Financial Assistance provides staff assistance to the Director regarding specific programs designed to aid Indians in obtaining adequate capital for development of Indian resources, and to provide credit and financing services to Tribal organizations and individual members. This includes services to obtain funds from conventional and governmental sources to finance all types of Indian economic self-development, including loans for housing, education, and Indian governmental purposes, and in the investment and use of their own moneys for the same purposes. The programs include incentive provisions; financial counseling and analysis; and organizational, accounting, and management services. Also, the Division administers Revolving Loan Fund programs for the Bureau and assists in the establishment, supervision and financing of lending programs for Indian organizations. The Division includes a credit examining staff located in Denver, Colorado.

C. The Division of Job Placement and Training provides staff assistance to the Director regarding Bureau programs leading to the development of job opportunities, on-the-job training, and other services needed to enable Indian individuals seeking work to secure and retain suitable employment. The programs involve a variety of activities related to direct employment services on-and off-reservation, including administrative management contracts with tribal governments, internship programs with private industry and governmental bodies, specialized training with federal and state agencies, and professional guidance to Indian tribes in assisting the development of their manpower potential. The Division acts as liaison with other federal agencies conducting activities that have direct bearing on Indian manpower development resources. The Division includes a branch called the Indian Technical Assistance Center in Denver, Colorado, which administers and monitors Indian Action Team contracts and which provides technical assistance and expertise to tribes with Indian Action Team contracts.

D. The Division of Transportation provides staff assistance to the Director regarding Bureau programs for analysis, design, construction, and maintenance of roads, bridges, airfields, and other transportation facilities with the ultimate objective of enhancing reservation economics and services to Indian and Alaska Native people. The Division includes a technical support staff in Albuquerque, New Mexico, which provides the Area and Agency Offices with computer operated design, inventory equipment and project cost management services.

.1 The Office of Trust Responsibilities is responsible for providing staff support to the Commissioner in the development and management of programs relative to the Bureau's trust and legal responsibilities. This includes (1) the protection of the rights of Indians in their trust property and those rights affecting trust property that are afforded by tribal sovereignty; (2) the exercise of the authorities vested in the Secretary of the Interior by various laws concerning Indian trust property and for providing to Indians the services necessary for them to make decisions required of them in the application of these various laws; and (3) administration of those programs which are provided to facilitate the trust.

The functions regarding the protection of the rights as cited in (1) above are performed in the Office of the Director. This encompasses (a) all matter involving rights which include water rights, land titles, boundary disputes, trespass, hunting and fishing rights, contractual rights, the rights afforded by tribal sovereignty which include tax immunity or exemption, and the right to regulate hunting and fishing, zoning and other land use; (b) liaison between field offices and the Department on specific cases to bring about an administrative or judicial solution; and (c) provision of technical expertise in preparation of legislation and legislative reports.

The Office of Trust Responsibilities plans, develops, monitors, and evaluates programs, policies, standards, procedures, and feedback systems for its assigned programs; participates in the allocation of Bureau resources for respective program operations; and makes recommendations to the Commissioner for necessary changes or adjustments in the program and in its implementation.

A. The Division of Trust Facilitation provides staff assistance and advice to the Director regarding Bureau programs concerning environmental quality, irrigation operation and maintenance, irrigation construction, and soil and moisture conservation..

B. The Division of Trust Services provides staff assistance and advice to the Director regarding the Bureau's real estate, forestry, range, and Indian trust fund programs; and directs the Bureau's trust fund investment operations in Albuquerque, New Mexico. Provides staff work, assistance and advice pertaining to the exercise of the authorities vested in the Secretary of the Interior by various laws concerning Indian trust property and for providing to the Indians the services necessary for them to make decisions required for them in the application of these various laws

.1 The Office of Indian Education Programs is responsible for providing staff support to the Commissioner in the development and management of Bureau programs which will provide educational opportunities to Indian youth and adults in either Bureau, public, or private schools. The Office provides technical and supportive assistance to field offices responsible for educational programs. This Office plans, develops, monitors, and evaluates programs, policies, standards, procedures, and feedback systems for its assigned programs; participates in the allocation of Bureau resources for respective program operations; and makes recommendations to the Commissioner for necessary changes or adjustments in the program and in its implementation. The Director of Indian Education Programs has line authority for the three Bureau Post-Secondary Institutions: Haskell Indian Junior College, the Institute of American Indian Arts, and Southwestern Indian Polytechnic Institute.

A. The Cultural Studies Staff, located in Santa Fe, New Mexico, provides staff assistance to the Director. It provides cultural research as applied in education and community development; provides for development of cultural research data for utilization in policy and program formulation and coordinates with the Planning and Program Development Staff; and provides for cultural studies development through interagency cooperation in resources (human, material, funding) development, innovative education program investigation involving direct contact with Indian communities, educational agencies, and major resources facilities.

B. The Management Support Staff provides staff services to the Director in the financial management, planning, and fiscal accountability within the Office of Indian Education Programs. It maintains liaison with the Office of Administration on all budget execution, finance, procurement, procedural, and personnel matters; coordinates its financial management planning activities with the Director's Planning and Program Development Staff; and provides educational information /data as input for budget justification.

C. The Planning and Program Development Staff provides staff assistance to the Director by developing short and long range plans and procedures for new educational programs, the evaluation of existing programs, and budget formulation. The Staff researchs and develops new educational policies, reviews and analyzes proposed legislation, provides recommendations concerning legislative needs, and coordinates with the Bureau Congressional and Legislative Affairs Staff. The Staff coordinates the educational research and evaluation programs and keeps the Director informed of new and innovative education techniques, policies, and procedures, and their relationships to practices of other Federal agencies, state agencies, and local school systems.

The staff maintains liaison with the Commissioner's Office of Policy Planning in overall Bureau planning efforts, and coordinates planning activities with the Divisions in the Office of Indian Education Programs and with other federal agencies with like responsibilities.

D. The Division of Elementary and Secondary Education provides staff assistance to the Director in the development of education programs in Bureau schools. It coordinates Johnson O'Malley Programs, Elementary and Secondary Education Act Title Programs, and other flow-through programs. The Division maintains liaison with other Federal, State, and local education agencies regarding Indian Education Programs and needs. The Division recommends relevant legislation to the Education Planning and Program Development Staff, and provides advice and/or input into proposed legislation directed at affecting government policy, as it relates to Indian Education Programs.

E. The Division of Post-Secondary Education provides staff assistance to the Director in the development, administration, and monitoring of post-secondary education programs in the Bureau of Indian Affairs. It is responsible for working directly with Bureau post-secondary education institutions. The Division coordinates post-secondary education programs with other Federal agencies and Indian interest groups; maintains liaison with the U.S. Office of Education, Association of Indian Boards of Regents, and Indian controlled community colleges; recommends legislation relevant to post-secondary education programs; provides policy guidance and liaison with other Federal agencies in regard to the Bureau Higher Education Scholarship programs; provides staff support for special higher education programs.

.2 The Indian Education Resources Center, located in Albuquerque, New Mexico, provides coordination of supervision for five divisions which are: (1) Continuing Education; (2) Educational Assistance; (3) Educational Audio-Visual Services; (4) Education Evaluation and Research; and (5) School Facilities. The Office provides staff and technical assistance to the Director.

A. The Division of Continuing Education provides technical assistance for coordinating adult education and vocational training activities.

B. The Division of Educational Assistance provides technical assistance for monitoring and evaluating Johnson O'Malley, Elementary and Secondary Education Title Programs, and assigned flow-through programs.

C. The Division of Educational Audio-Visual Services, located in Brigham City, Utah, provides Bureau educational programs with films for classroom teaching, vocational instruction and teacher training; and provides a film library and media production training for Indian students; and is responsible for coordinating non-educational films and materials with the Public Information Staff in compliance with applicable regulations and Departmental Manual requirements (471 DM).

D. The Division of Education Evaluation and Research provides technical assistance for research and data collection required to evaluate Bureau education programs.

E. The Division of School Facilities provides technical assistance in coordinating long-range plans for construction, establishing criteria for design of school space, developing educational equipment specifications; provides procurement of school equipment and trains school members in the usage of equipment. The Division maintains liaison with the Division of Facilities Engineering.

.1 The Office of Administration is responsible for providing staff support to the Commissioner in the development and management of Bureau programs designed to provide support services to all parts of the Bureau. These programs include the functions of audit, automatic data processing, budget, facilities engineering, energy conservation, finance and accounting, management research and evaluation, personnel management, procurement, property management, contracting, program development and implementation, and safety management. The Office also administers Bureauwide systems for fiscal accounting and disbursements, payroll, and personnel records; operates a computer services center; provides for architectural and engineering services for new facility construction; and provides for administrative and housekeeping services for the Central Office, the Eastern Area, and the Indian Arts and Crafts Board.

A. The ADP Planning and Policy Staff, in coordination with the Assistant Director for Support Services, the Policy Planning Staff, and Central and Area Offices, is responsible for development of the BIA ADP Management Plan. Develops and implements policies, guidelines, and standards relating to all phases of ADP and provides liaison with the Department, other Interior bureaus and Federal and non-Federal activities engaged in ADP management. Monitors Bureau activities for compliance with established ADP standards, guidelines, regulations, and plans. Assists headquarters and Area Offices in identifying and obtaining alternative sources of ADP support. Recommends ADP support budgets, resource allocations, and major equipment acquisitions to the Commissioner.

B. The Contracting and Grants Administrative Staff provides staff assistance to the Director regarding Bureauwide contracting and grants administration. The Office is responsible for planning, development, promulgation and implementation of Bureau contracts and grants policies and procedures.

It reviews Bureauwide contracting and grant operations for effectiveness and recommends appropriate action. It provides technical leadership to contracting and grants administration functions throughout the Bureau. It develops and identifies contracting and grants administration training material and conducts training sessions for Bureau contracting and grants administration personnel. It also develops and devises innovative procedures and methods that may be used to broaden Indian self-determination in all phases of the contracting and grants administration activities within the Bureau.

C. The Equal Employment Opportunity Staff. The Central Office Equal Employment Opportunity Officer has full delegated authority and functional responsibility from the Commissioner for administering the Equal Employment Opportunity Program. This is an independent Staff located within the Office of Administration. The Staff, in coordination with the Central and Area Offices, develops plans, procedures, and regulations in carrying out the EEO Program to promote equal opportunity without regard to race, color, religion, sex, or national origin in all organizational units, locations, occupations, and levels of responsibility. It is also responsible for monitoring the continuing application of Indian preference in initial hiring, promotions, and transfers. The Staff includes a Federal Women's Coordinator who has the responsibility to assure that equal opportunity for women is an integral part of the overall EEO Program.

D. The Tribal and Administrative Accounting Services Staff provides an accounting service to Tribes on their request, including Tribal Housing Authorities. The staff assists Tribes in training personnel in accounting techniques, principles and practices on request. Also provided are internal administrative audits of Indian Service Special Disbursing Agent accounts, Imprest Fund Cashiers, and Student Activity Funds. The Office includes a staff office in Littleton, Colorado.

.2 Financial Management, under the supervision of an Assistant Director, is responsible for the development of policies, programs and guidelines for financial management functions; for performance of the functions identified with the budget cycle; and the operation of fiscal accounting, compensation, and employee data systems. The Office of Assistant Director serves as a coordination point and central source for Indian population data and for special statistical analysis.

A. The Division of Accounting Management provides staff assistance to the Assistant Director regarding the Bureau programs designed to provide advice and guidance in areas of accounting, fiscal operations, financial management, accomplishment reporting, centralized payroll, and automated personnel records systems; directs the employee data and compensation, finance and accounting operations located in Albuquerque, New Mexico. The Division develops standards, specifications and operating procedures for these functions. It develops policies, systems, and procedures to be used throughout the several designated accounting stations of the Bureau.

B. The Division of Program Development and Implementation provides staff assistance to the Assistant Director regarding those functions identified with the budget cycle. In coordination with program directors, the Division implements the Commissioner's policies and program goals through the budgetary process; develops instructions for use in annual program plans; reviews program requests on the basis of fiscal reasonableness, feasibility and justifiability; reviews proposed tribal comprehensive plans to determine fiscal feasibility for package funding; develops Bureauwide program planning documents; develops budget estimates and justifications; prepares for budget legislative hearings; prepares field planning allowances and tentative allocations. Performs budget execution functions, including continuing resolutions, encoding programs to the finance system, allotting funds, position and personnel ceilings, comparisons of actual and planned funds and accomplishments, and reporting exceptions between planned and actual conditions.

.3 Personnel, under the supervision of the Chief Personnel Officer, is responsible for the development, coordination, administration and evaluation of personnel management programs and policies for the entire Bureau.

A. The Division of Personnel Management. The Chief Personnel Officer serves in a dual capacity as Chief, Division of Personnel Management. The Division formulates objectives, policies and guidelines for Bureau personnel management activities; provides for orderly alignment of positions for pay administration, position management, and other personnel and management purposes; and develops standards and criteria for securing and retaining qualified employees; and provides guidance to Bureau management on labor-management relations issues and maintains relationships with employee groups and unions recognized by the Bureau on a national basis.

It initiates and administers comprehensive career development plans and programs, including training and promotion; oversees employee-management relations to assure that working conditions and employee conduct meet work and public service requirements; engages in studies and analyses to identify bureau manpower and personnel management needs, current and future, and takes action to satisfy these requirements; conducts personnel program reviews and evaluations on a Bureauwide basis and recommends to management officials methods for improvement. Maintains liaison with the Civil Service Commission and the Department on personnel management matters. The Division provides staff assistance to the personnel management officials in the Bureau in the implementation of the policies developed at the Bureau and Department level.

The Division also provides operating personnel services for Central Office organizations located in Washington, D.C., and west of the Mississippi, Eastern Area activities and the Indian Arts and Crafts Board. This includes a personnel services staff located in Albuquerque, New Mexico.

.4 Supporting Services, under the supervision of an Assistant Director, is responsible for providing centralized ADP services for Bureauwide computerized systems and administrative management and housekeeping services for support of Central Office and Eastern Area activities.

A. The Division of Automatic Data Processing Services, located in Albuquerque, New Mexico, is responsible for providing Bureauwide automatic data processing services. It advises, consults and assists in developing automated management, administrative and mission-oriented systems. The Division provides ADP systems and programming services. Maintains and manages a computer center in an intra-Bureau sharing environment. Evaluates and recommends, to the ADP Planning and Policy Staff through the Assistant Director of Support Services, the acquisition of computer equipment as required in support of the Bureau's ADP Management Plan.

B. The Division of Administrative Services is responsible for planning, programming, budgeting, and providing support services for Central Office organizations located in Washington, D. C., and west of the Mississippi, Eastern Area activities, and the Indian Arts and Crafts Board. This includes procurement, supply, contracting, property, energy conservation, office and housekeeping services; operating budget and fiscal accounting functions; paperwork operations. This Division includes the Field Administrative Office in Albuquerque, New Mexico, which provides support services to Central Office installations located in Albuquerque, New Mexico, and other selected locations.

.5 Management Services, under the supervision of an Assistant Director, is responsible for the development of policies, programs and guidelines for the general management functions related to facilities engineering; property and safety management; and administrative procedures and programs; and reporting and reviewing alleged irregularities within the Bureau's scope of operation.

A. The Division of Facilities Engineering, located in Albuquerque, New Mexico, with a liaison office in Washington, D. C., provides staff assistance to the Assistant Director regarding the Bureau programs designed to provide architectural, engineering and other technical services related to the construction of new facilities. The Division coordinates the Bureau's program for major rehabilitation, alterations, improvement and maintenance of existing buildings, utilities, grounds and other facilities and provides technical services to tribes on construction and design. The Division also provides design and construction services on interdepartmental agreements and to Indian and Alaska Natives as directed.

B. The Division of Management Research and Evaluation provides staff assistance to the Assistant Director regarding the Bureau's managerial functions. Conducts management studies throughout the Bureau on organization structures, staffing validations and utilization of resources. Reviews and examines the Bureau's administrative systems for effectiveness which includes analysis of work flow, procedures and accomplishments. Conducts or coordinates evaluation studies on managerial, administrative operations and program operations as they relate to management. Provides technical assistance on evaluations of specific functional areas. Analyzes, for management purposes, evaluation reports prepared by other organizational segments in the Bureau. Responsible for Bureauwide paperwork management programs including records management, directives management, reports and forms control, Federal Register publications, and delegations of authority. Reviews, for top management, requests for revisions in organizational structures, delegations of authority and Bureauwide directives. Performs special studies or projects, having Bureauwide significance, as directed. Serves as coordinating and contact point for the Department's Audit and Investigation Office in monitoring and follow up on Departmental Audit and Review, GAO and FBI reports.

C. The Division of Property Management provides staff assistance to the Assistant Director regarding Bureau programs for property management and procurement from established sources. The Division is responsible for development, promulgation and implementation of Bureau policies and procedures for all such programs, and reviews and evaluates these programs for effectiveness and recommends appropriate action. It provides Bureau oversight for procurement services on items which have Bureauwide or multiarea applications. It provides for technical leadership for the management of these programs throughout the Bureau.

D. The Division of Safety Management provides staff assistance to the Assistant Director regarding Bureau safety matters. This includes programs relating to the prevention of accidents, reduction of injuries and fatalities, improvement of health safety conditions, processing of compensation cases, occupational health and safety programs, and highway safety programs. The Division also reviews architectural and engineering drawings on major construction of buildings and utilities for compliance with national fire standards. The Division develops internal and tribal safety programs including policies and guidelines for these programs. It develops policies, procedures and standards for Bureauwide fire prevention and fire protection programs. It conducts investigations and collects data for the Solicitor's Office on tort claims.

.1 Field Organization. For the purpose of administering its field activities, the Bureau has divided the United States into twelve areas. Each is designated by the name of the city in which the area office is located, except the Navajo Area Office, which is located in Window Rock, Arizona, and the Eastern Area which is headquartered in Washington, D. C.

A. Area Offices. Each Area Office is under the direction of an Area Director who is responsible to the Commissioner for all activities of the Bureau within the Area. The Area Director is a line officer. He is typically assisted by a Deputy Area Director or by one or more Assistant Area Directors who are redelegated line authority. The typical Area Office includes staff specialists in several or all of the Bureau programs to assist in the discharge of the following Area responsibilities:

(1) Represent the Bureau in its dealings with the Indians, the public, State governments, and other Federal agencies with respect to the Area's jurisdiction;

(2) Direct and assist in the application and implementation of overall policies and programs by operating offices, provide the necessary technical advice and review, evaluate performance and coordinate those features of programs which are wider in scope of application than the jurisdiction of a single operating office;

(3) Recommend to the Central Office revisions of policies, programs, procedures, and regulations; and

(4) Perform functions of an administrative and housekeeping nature which can be done most efficiently and economically on an Areawide basis. The Areas headquartered at Anadarko, Oklahoma; Minneapolis, Minnesota; and Sacramento, California, receive administrative support from the Muskogee, Oklahoma; Aberdeen, South Dakota; and Phoenix, Arizona, Area Offices, respectively. The Eastern Area receives administrative and program support from the Washington Office.

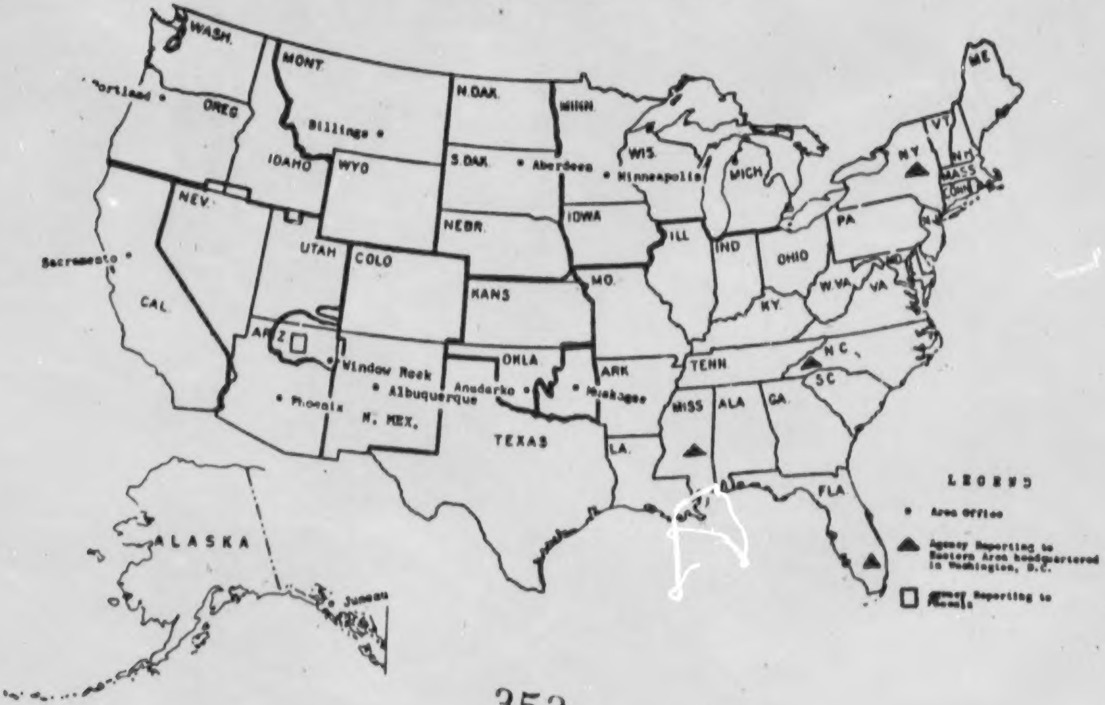
B. The Joint Use Administrative Office located in Flagstaff, Arizona, is an operating office responsible to the Commissioner for carrying out those functions related to the use and management of lands within the Joint Use Area. The Office will act to achieve the fullest cooperation and compliance of the Hopi and Navajo Tribes and their individual members to resolve the problems within the Joint Use Area. It provides for judicial administration, law enforcement, and crime prevention services to the Indian people located within this area. It also seeks to obtain assistance from other Federal agencies, states, local and tribal governments, and private sources in carrying out the functions of the office.

C. Agencies. Agencies, the third organizational level of the Bureau, may conduct several or all of the activities of the Bureau on one or more reservations, in contrast to other types of field installations which may have specialized activities (D and E). The Superintendent of an agency is responsible for the development and execution of immediate and long-range programs to fit the needs of the people and the reservation(s) under his jurisdiction. He reports to the Area Director of the area in which the agency is located. Assisting the Superintendent are specialists in several or all of the Bureau programs. as needed.

D. Off-Reservation Boarding Schools. Boarding schools which are not located on reservations are used for the education of Indian children who otherwise would not be able to attend school. The schools are under the direction of a School Superintendent who reports directly to the Area Director of the Area in which the school is located (except when schools are totally contracted).

E. Flathead, Navajo, San Carlos, and Wapato Irrigation Projects. These major irrigation projects are under the direction of a Project Engineer or Manager who reports directly to the Area Director of the Area in which the project is located. Their primary purpose is the supplying of water to Indian irrigable lands. The projects may also serve non-Indian lands and provide electrical services to the reservation and adjacent areas for project or private use.

AREA ORGANIZATION--BUREAU OF INDIAN AFFAIRS


WASH.
MONT.
Portland
OREG.
Billings
N.DAK.
MINN.
ME
VT
NH
N.Y.
MASS
CONN
IDAHO
WYO
S.DAK.
Aberdeen
Minneapolis
WIS.
MICH.
NEV.
UTAH
COLO
NEBR.
IOWA
PA.
N.J.
ILL.
IND.
OHIO
MD.
Sacramento
CAL.
KANS.
MO.
W.VA.
VA.
KY.
ARIZ.
Window Rock
Albuquerque
Phoenix
N. MEX.
OKLA.
Anadarko
Muskogee
ARK.
TENN.
N.C.
S.C.
MISS.
ALA.
GA.
TEXAS
LA.
FLA.
ALASKA
Juneau
LEGEND
Area Office
Agency Reporting to Eastern Area headquartered in Washington, D.C.
Agency Reporting to Phoenix

.1 Aberdeen Area Office, Aberdeen, South Dakota, (North Dakota, South Dakota, and Nebraska):

Nebraska:
  Winnebago Agency, Winnebago
North Dakota:
  Fort Berthold Agency, New Town
  Fort Totten Agency, Fort Totten
  Standing Rock Agency, Fort Yates
  Turtle Mountain Agency, Belcourt
  Wahpeton School, Wahpeton
South Dakota:
  Cheyenne River Agency, Eagle Butte
  Crow Creek Agency, Fort Thompson
  Flandreau School, Flandreau
  Lower Brule Agency, Lower Brule
  Pine Ridge Agency, Pine Ridge
  Rosebud Agency, Rosebud
  Sisseton Agency, Sisseton
  Yankton Agency, Wagner

.2 Albuquerque Area Office, Albuquerque, New Mexico (Colorado and New Mexico):

Colorado:
  Field Employment Assistance Office, Denver
  Ute Mountain Ute Agency, Towaoc
  Southern Ute Agency, Ignacio
New Mexico:
  Albuquerque Indian School, Albuquerque
  Jicarilla Agency, Dulce
  Mescalero Agency, Mescalero
  Northern Pueblos Agency, Santa Fe
  Ramah-Navajo Agency, Ramah
  Southern Pueblos Agency, Albuquerque
  Pueblo of Zuni, Zuni

.3 Anadarko Area Office, Anadarko, Oklahoma (Kansas and Western Oklahoma--see Muskogee Area Office for other offices in Oklahoma):

Kansas:
  Horton Agency, Horton

Oklahoma:
  Anadarko Agency, Anadarko
  Chilocco School, Chilocco
  Concho Agency, Concho
  Concho School, Concho
  Employment Assistance Field Office, Oklahoma City
  Fort Sill School, Lawton
  Pawnee Agency, Pawnee
  Riverside School, Anadarko
  Shawnee Agency, Shawnee

.4 Billings Area Office, Billings, Montana (Montana and Wyoming):

Montana:
  Blackfeet Agency, Browning
  Crow Agency, Crow
  Flathead Agency, Ronan
  Flathead Irrigation Project, St. Ignatius
  Fort Belknap Agency, Harlem
  Fort Peck Agency, Poplar
  Northern Cheyenne Agency, Lame Deer
  Planning Support Group, Billings
  Rocky Boy's Agency, Box Elder
Wyoming:
  Wind River Agency, Fort Washakie

.5 Juneau Area Office, Juneau, Alaska (Alaska and the Seattle Liaison Office, Seattle, Washington):

Alaska:
  Anchorage Agency, Anchorage
  Bethel Agency, Bethel
  Fairbanks Agency, Fairbanks
  Mt. Edgecumbe School, Mt. Edgecumbe
  Nome Agency, Nome
  Southeast Agency, Juneau
Washington:
  Seattle Liaison Office, Seattle

.6 Minneapolis Area Office, Minneapolis, Minnesota (Minnesota, Wisconsin, Michigan, Illinois and Iowa):

Michigan:
  Michigan Agency, Sault Ste Marie

Minnesota:
  Minnesota Agency, Bemidji
  Red Lake Agency, Red Lake
Wisconsin:
  Great Lakes Agency, Ashland
Illinois:
  Field Employment Assistance Office, Chicago
  Industrial Development Center, Chicago
Iowa:
  Sac and Fox Area Field Office, Tama

.7 Muskogee Area Office, Muskogee, Oklahoma (Oklahoma and Texas) (Part of Oklahoma--see Anadarko Area Office for other offices in Oklahoma):

Oklahoma:
  Ardmore Agency, Ardmore
  Carter Seminary, Ardmore
  Eufaula Dormitory , Eufaula
  Field Employment Assistance Office, Tulsa
  Jones Academy, Ardmore
  Okmulgee Agency, Okmulgee
  Osage Agency, Pawhuska
  Miami Agency, Miami
  Seneca Indian School, Wyandotte
  Sequoyah High School, Tahlequah
  Tahlequah Agency, Tahlequah
  Talihina Agency, Talihina
  Wewoka Agency, Wewoka
Texas:
  Field Employment Assistance Office, Dallas

.8 Navajo Area Office, Window Rock, Arizona (Arizona, New Mexico):

Arizona:
  Chinle Agency, Chinle
  Fort Defiance Agency, Fort Defiance
  Western Navajo Agency, Tuba City
New Mexico:
  Eastern Navajo Agency, Crownpoint
  Navajo Irrigation Project, Farmington
  Shiprock Agency, Shiprock

.9 Phoenix Area Office, Phoenix, Arizona (Part of Arizona--see Navajo Area Office for other offices in Arizona; Sherman Indian High School, California; Nevada; and Intermountain School and NITC, Utah).

Arizona:
  Colorado River Agency, Parker
  Fort Apache Agency, White River
  Fort Yuma Agency, Yuma
  Hopi Agency, Keams Canyon
  Papago Agency, Sells
  Phoenix Indian High School, Phoenix
  Pima Agency, Sacaton
  Salt River Agency, Scottsdale
  San Carlos Agency, San Carlos
  San Carlos Irrigation Project, Coolidge
  Truxton Canon Agency, Valentine
California:
  Sherman Indian High School, Riverside
Nevada:
  Eastern Nevada Agency, Elko
  Stewart Boarding School, Stewart
  Western Nevada Agency, Stewart
Utah:
  Intermountain School, Brigham City
  National Indian Training Center, Brigham City
  Uintah and Ouray Agency, Fort Duchesne

.10 Portland Area Office, Portland, Oregon (Idaho, Oregon, and Washington--except Seattle Liaison Office, under Juneau Area Office):

Idaho:
  Fort Hall Agency, Fort Hall
  Northern Idaho Agency, Lapwai
Oregon:
  Chemawa Indian School, Chemawa
  Umatilla Agency, Pendleton
  Warm Springs Agency, Warm Springs
Washington:
  Colville Agency, Nespelem
  Field Employment Assistance Office, Seattle
  Spokane Agency, Wellpinit
  Wapato Irrigation Project, Wapato
  Western Washington Agency, Everett
  Yakima Agency, Toppenish

.11 Sacramento Area Office, Sacramento, California (California, except Sherman Indian High School see Phoenix Area Office):

California:
  Central California Agency, Sacramento
  Field Employment Assistance Office, (Oakland/San Francisco), Alameda
  Field Employment Assistance Office, Los Angeles
  Hoopa Agency, Hoopa
  Industrial Development Center, Los Angeles
  Madera Residential Training Center, Madera
  Palm Springs Area Field Office, Palm Springs
  Southern California Agency, Riverside

.12 Eastern Area Office, Washington, D. C. (Florida, Mississippi, North Carolina, New York and Ohio):

Florida:
  Miccosukee Tribe of Indians of Florida, Tamiami Station
  Seminole Agency, Hollywood
Mississippi:
  Choctaw Agency, Philadelphia
Ohio:
  Field Employment Assistance Office, Cleveland
North Carolina:
  Cherokee Agency, Cherokee
New York:
  New York Field Office, Syracuse
Washington, D.C.:
  Washington Field Employment Assistance Office,

.13 Joint Use Administrative Office, Flagstaff, Arizona

DEPARTMENTAL MANUAL

.1 Policies and Procedures. Bureau of Indian Affairs policies and procedures are published in the Bureau of Indian Affairs Manual which is available for public inspection and copying at the Area Offices identified in 130 DM 9.

.2 General Inquiries and Requests. Information concerning the policies and programs of the Bureau of Indian Affairs may be secured by addressing the Commissioner of Indian Affairs, Department of the Interior, Washington, D. C. 20245; the Area Office; or the Agency Office, Bureau of Indian Affairs, in the appropriate city and state.

Mr. **Lovesee.** Well, by authority of Congressman Blouin and Congressman Quie, I want to thank the BIA for coming and hope that we can work over a period of time to accomplish something.

Thank you.

Mr. **Lavis.** Thank you.

[Whereupon, at 4:30 p.m., the hearing was adjourned.]

[Material submitted for inclusion in the record follows:]

TESTIMONY OF GEORGIANNA TIGER, EDUCATION DIRECTOR OF THE NATIONAL CONGRESS OF AMERICAN INDIANS, TO THE SUBCOMMITTEE ON ELEMENTARY, SECONDARY, AND VOCATIONAL EDUCATION OF THE COMMITTEE ON EDUCATION AND LABOR, U.S. HOUSE OF REPRESENTATIVES, ON H.R. 9810, THE "INDIAN BASIC EDUCATION ACT", MARCH 1, 1978.

We wish to take this opportunity to express our sincere and deep appreciation to the members of this Subcommittee and their staffs for their efforts to remedy the inequities and injustices currently existent in Indian education. We commend you for your intent as demonstrated through the introduction of H.R. 9157 and H.R. 9810 and for your patient deliberating its amendments with the tribes and their organizations. However, in hearing the concerns of our respective and varied constituencies who will ultimately be affected by this proposed legislation we express concern that this bill in its complexity will affect many tribes in many different ways. This was not readily apparent in the earlier stages of the bill. It has taken over five months of deliberating this bill and its ramifications to come to the few general conclusions regarding necessary amendments that follow:

First and foremost, the bill should be in such form that it can be dealt with as the two entirely separate issues that it is. In its present form, and in view of the complex and varied problems it attempts to resolve, national consensus cannot be reached unless Section 3-21 are totally isolated and dealt with separate and apart from Section 2.

Section 2: In regard to the first Section amending P.L. 874 there are some concerns as to the impact of state equilization formulas in these doubled appropriations actually reaching their targets undiluted. If the hopes of tribes and Indian parents are to be built up to expect considerable increases in public school financing, then this problem must be corrected in the legislation; or those tribes whose members will be adversely affected must be advised as to how they will be affected thus not promulgating false hopes.

The tribal control stipulations of the bill upon close review appear to be vague and need clarification and strengthening.

For example, Section 2(c)(iv); a tribally-designated representative would not necessarily adequately be able to reflect the views of the community. Further, his/her "participation" is not defined.

Continuing, such legislative mandates as (v) "periodic review by all parties" and "consultation"; "adequately considered and influenced"; "reasonable opportunities" throughout Section 2 are nebulous and confusing and provide little direction to the legislative mandates.

The bill sweepingly encompasses public school districts having from 83% to 6% Indian enrollment. This must be a serious consideration in view of the option for tribes to withdraw from the public schools. Toward each extreme, this would not be unrealistic: In one instance, it would close the public school; in the other it is unlikely that the need would reach the priority-rating necessary for the construction of a school. Even if a separate school construction priority system is to be legislated, there are still no guarantees that it could be effectively implemented.

The success of implementing this Section relies on an adequate appropriation and management system for school construction. This has not happened in the past. Particularly in view of the B.I.A.'s loss of construction monies and administering authority last fiscal year and its inability to date to present a sound construction plan. We feel that further legislation intended to achieve this cannot enforce it. This very serious problem must be further addressed before we can support the bill.

Another major concern is the authority that is ultimately vested with the Commissioner of Education D-HEW. We command the bill in its efforts to exhaust all options prior to the Commissioner intervening. However, we find enough instances existent now that would warrant HEW/OE Commissioner intervention if this bill were now law. HEW/OE has a demonstrated lack of expertise and experience with Indian education, and it is not likely that the Commissioners designate would arbitrate with the sensitivity and knowledge that is necessary. While we acknowledge that the trust responsibility lies with the federal government and thus could be carried out by other than the Department of Interior, we do not feel that vesting this authority in HEW would result in the best interest of the tribes.

Further, the bill in its present form is not refined in the obvious problems raised with student transfers. It is unlikely that school districts would assist in predicting the transfer and loss of operational monies for its Indian students as it would be unknown how many Indian parents would exercise their individual rights in keeping their children in the public school. The problems that would arise from this situation remain unaddressed in the proposed legislation.

Section 3: As noted earlier in this testimony, this Section through Section 21 should be a separate bill. The entire bill in its present form encompasses too many different areas that affect too many different tribes in too many different ways. It cannot effectively be dealt with in this comprehensive manner. In regard to HEW conducting studies and surveys, unanimous concern was raised by our membership as to the appropriateness of their involvement. NIE and NCES have not demonstrated any particular expertise in this area of Indian education. While we acknowledge that the B.I.A. had demonstrated an inability to be responsive in this area, we do not feel that this in and of itself is enough justification for transfer of that responsibility to HEW. Case in point is the present feeling among many tribes that the Office of Indian Education within HEW is in dire need of administrative improvement. The potential confusion of further dual responsibilities between agencies is not balanced by any optimism that HEW would be an improvement in service delivery.

In the full intent of 638 tribes may wish to have more involvement and control in establishing their own standards. 18 months is not enough time for many tribes to establish standards in view of their manpower shortages, tribal technical assistan~~y~~ce needs, and 638 implementation problems.

Section 4: Again the appropriateness of NIE is questionable for the same reasons as stated in Section 3.

Establishing "national criteria" may not be possible to achieve in consideration of the uniqueness of each situation.

Section 5: (a) This is an administrative problem to comply with existing law. There is no reason to believe that restating it legislatively will expedite its resolution.

(b) As has been addressed earlier in this testimony, we cannot find the optimism that further legislative mandates will resolve the existing construction problem. It is an administrative problem. To attempt to address it legislatively may have the negative effect of slowing the administrative remedy now in process. Further, if the CONGRESS were unable to force the B.I.A. into action in construction, it would have no other recourse than is presently being taken by the Appropriations Committee.

Most importantly reauthorizing appropriations in this enabling legislation will quite probably not result in actually acquiring enough appropriations to carry out the mandate. We are in general support of Section 6 with the appropriate modifications to Section 3 as would apply also to Section 7. Again, the present appropriation under this title is well under 10% of the authorization and it is unlikely that the Tribes will be able to acquire sufficient funding by establishing their eligibility under this title.

Within our constituency there is general support for the Administrative reorganization that is presently under way within the B.I.A. by the Assistant Secretary. A special Task Force on Reorganization of the B.I.A. is presently involved in an intensive study that promises to involve the tribes. We have seen positive steps taken in his five months tenure: for example, planned is aproposal to C.S.C. to politicize subordinate positions from CS to Schedule C appointments.

For this reason we can see no positive reason for simultaneously pursuing this bill. We must wait to enable our constituencies to evaluate those changes in B.I.A. as compared to the potential merits of legislative reorganization. Relegislating what authority already exists will result in a long term exercise in futility for the Tribes.

Section 10 (c): Our membership have raised questions regarding the necessity of this Section. We ask that further information be provided to our membership justifying the need and intent of this Section in order that we can better address it.

Section 13:(e): We cannot endorse the proposed waiver of Indian preference in employment. While we vigorously endorse implementing improvements that are necessary in enabling more local control and expediency, in the employment of teachers, we do not feel this legislative proposal is viable nor desirable. Further, NCAI is mandated by its membership in the Resolutions on the subject of Indian preference that we offer here for the record. These resolutions, passed by our Executive Council in January of this year, reflect the official stance of this organization through its membership on Indian preference.

We urge this Committee to allow the Task Force on Reorganization of the Bureau of Indian Affairs an opportunity to provide our Assistant Secretary for Indian Affairs with their recommendations; and to afford him an opportunity to administratively implement reorganization plans as a first option before any legislative remedies are further pursued.

EDUCATION COMMITTEE

Policy Resolution No.
CONTRACT & GRANT PREFERENCE IMPLEMENTATION
Referred to Executive Council

WHEREAS: The Indian Self-Determination and Educational Assistance Act of 1975 was enacted to "permit an orderly transition from Federal domination of programs for and services to Indians to effective and meaningful participation by the Indian people in the planning, conduct, and administration of those programs and services; and

WHEREAS: Section 7 (b) of that Act was designed to implement this transition to and participation by Indian tribes by requiring that any Federal agency which lets any contract or grant to or for the benefit of Indians require that preference and opportunities for training and employment in connection with the administration of such contracts or grants to Indians and that preference be given to Indian organizations and Indian owned economic enterprises in the award of any subcontract or subgrant; and

WHEREAS: there has been little or no compliance on the part of any Federal agency to require such preferences in employment, training, subcontracting, or subgranting; and

WHEREAS: Section 7 (b) does not specifically provide for preference in the award of the contracts and grants themselves; and

WHEREAS: this has resulted in substantial non-implementation of Indian Self-Determination as intended by the Act and a loss in economic well-being for Indian people.

BE IT HEREBY RESOLVED, that the National Congress of American Indians strongly recommends and support the following:

1) That the General Services Administration and the Office of Management and Budget promulgate uniform 7 (b) regulations applicable to all Federal agencies which award contracts or grants to or for the benefit of Indians, and

2) that Section 7 (b) be amended by the Congress to provide for preference to qualified Indian tribes, organizations and economic enterprises in the award of any contract or grant to or for the benefit of Indians.

EDUCATION COMMITTEE

Policy Resolution No.
OFFICE ON INDIAN EMPLOYMENT RIGHTS
Referred to Executive Council

WHEREAS: Section 7 (b) of P.L. 93-618 requires the preferential employment of Indians on contracts and grants for the benefit of Indians let by any Federal agency; and

WHEREAS: only one Federal agency has taken action to implement this requirement; and

WHEREAS: employment on Federal grants and contracts constitutes a substantial source of employment opportunities for the benefit of Indians but Indians have rarely been allowed to benefit from these opportunities; and

WHEREAS: the equal employment opportunity offices have been completely ineffectual and unresponsive in reversing agency actions which have been in violation of Indian employment preference as mandated by Section 12 of the Indian Reorganization Act; and

WHEREAS: Federal employment rights agencies have been negligent in combating employment discrimination against against Indians; and

WHEREAS: President Carter is in the process of developing a new Super Agency on employment rights.

NOW THEREFORE BE IT RESOLVED, that the new Super Agency contain an office on Indian employment rights which shall have the responsibility to insure that all Federal agencies carry out their responsibilities imposed by 7 (b) of P.L. 93-638 and to take other necessary actions to promote the employment rights guaranteed to Indians by Section 12, of the IRA, and Federal laws, orders and regulations.

EDUCATION COMMITTEE

Policy Resolution No.
INDIAN PREFERENCE - TO AGENCIES OTHER THAN BIA & IHS
Referred to Executive Council

WHEREAS: It was the intent of Congress in enacting Section 12 of the Indian Reorganization Act of 1934 to provide Indian employment preference within the Indian service; and

WHEREAS: at the time of enactment virtually all Indian service functions were located and administered by the Bureau of Indian Affairs; and

WHEREAS: in recent years Indian services and programs have been developed and disbursed into a number of federal agencies; and

WHEREAS: Section 12 of the Indian Reorganization Act was not drafted to take this historical development into consideration.

THEREFORE BE IT RESOLVED: that the National Congress of American Indians contact and negotiate with all federal agencies which have Indian divisions or administer Indian services to implement Indian employment preference pursuant to Section 12 of the Indian Reorganization Act of 1934; and

BE IT FURTHER RESOLVED THAT: in the event such agencies are unwilling to adopt appropriate resolutions implementing such preference that NCAI supports and recommends to the U.S. Congress that Section 12 of the Indian Reorganization Act of 1934 be amended to make it directly applicable to the Indian divisions or offices of agencies such as but not limited to the Office of Indian Education, the Administration of Native Americans (formerly ONAP) (D-HEW); division of Manpower Programs Administration (Indian Desk) (Department of Labor); Office of Minority Business Enterprises (Indian Desk) (Department of Commerce); Law Enforcement Assistance Administration, Office of Indian Rights, Civil Rights Division and the Indian Resource Section, Land and Resources Division (Department of Justice).

EDUCATION COMMITTEE

Policy Resolution No.
INDIAN PREFERENCE TRAINING, RECRUITMENT & RETENTION RESOLUTION
Referred to Executive Council

WHEREAS: It is the policy of the Federal Government to provide for employment preference for Indians within the federal agencies administering Indian services and programs and whereas the Indian Reorganization Act contemplated extensive training and recruitment of Indians in conjunction with Indian preference to facilitate getting Indians into their own service; and eventually make said service an Indian service in fact as well as in name; and

WHEREAS: that there has been no extensive Indian training and recruitment programs within those agencies administering Indian services and programs resulting in no appreciable increase in the percentage of Indian employees and a decrease in the percentage of Indians in higher level positions over recent years; and

WHEREAS: the inapplicability of Indian preference in reductions in force has resulted in a large number of Indian employees being separated from the federal Indian service employment.

THEREFORE, BE IT RESOLVED THAT: the National Congress of American Indians recommends that the preference laws be amended to provide for preference for Indians in training, recruitment, and retention under reduction in force procedures; and

BE IT FURTHER RESOLVED THAT: there be specific line budget items for the training, internship and recruitment of Indian people.

[illegible], President

[illegible], Business Manager

Sisseton Public School

DEPARTMENTS
Agriculture Business
Academic Physical Education
Home Economics Industrial Arts
Distributive Education Fine Arts
Vocational Education

[illegible], Superintendent
[illegible], High School Principal
[illegible], Middle School Principal
[illegible], Elementary Principal

DIRECTORS
[illegible]

Sisseton, South Dakota

March 8, 1978

TO WHOM IT MAY CONCERN:

The following response and attachments have been prepared for the record in reference to testimony presented by Mrs. Nancy Smith on behalf of the Sisseton Indian Education Committee (S.I.E.C.) to your committee early last month.

The opening paragraph which states "Indian controlled education" leaves a public school operation in a bit of a dilemma. In this writer's opinion, this mandate would or could only refer to a Bureau of Indian Affairs operated school.

On page 1, the theme seems to be the lack of cooperation of the Board of Education in regard to implementing a bilingual-bicultural program. The efforts of the school administration and Tribal officials brought about the bilingual program's inception in 1971. See enclosures A, B and C. It was the feeling that all students interested would be presented the concept and, if there was a shortage of funding, that Indian youngsters would be given preference, the reason for this liberal approach by both parties being that English as a second language had never presented a problem in our school. It is this writer's opinion that this program has developed quite successfully until the last two years when the Sisseton Indian Education Committee had refused payment on a cost-reimbursable contract, approved by the School Board, S.I.E.C., Tribal Council and the Aberdeen area office.

One point raised about teachers was at the high school level when the administration maintained, to give high school credit, the course must be approved and certified. The administration then found a person with a B.A. degree in the Dakota language and since has replaced her with a qualified Ph.D., and now the course is accredited by the North Central Association and the state department. I might also add the chairperson of the S.I.E.C. teaches the language at our middle school, grades 6-7-8.

On page 2, the presenter has not published the final contract but one of the working copies. Would you please refer to enclosure #1, a signed copy of the contract.

The S.I.E.C. contends items #1, 3 and 4 were not honored. May I direct your attention to enclosure #2, page 6 of our school's handbook.

Item #3 was reduced, due to the lateness of contracting, to one day as enclosure #1 will verify. This was accomplished, and the S.I.E.C. was on the planning committee.

Item #4 was to be completed by the S.I.E.C., so I question how the Board of Education could have faulted this item. In fact, the S.I.E.C. did pick up the materials last March. Our principals had to round up the books this fall. To date, the Board has not received a report on the materials or a request to present the same.

It is not the Board of Education's position that conciliation is at an end, and we question the fact that the S.I.E.C. would forward their plans to John Wabaunsee for him to include in an overall package if all hopes for future endeavors were at a standstill. The School Board would have no quarrel with Mr. Wabaunsee negotiating, in the S.I.E.C.'s behalf, the basic support contract. Our only request would be let us do this prior to October, not in March.

Page 3 speaks mainly to a 'remedial reading program'. Please see enclosure #3. The superintendent of schools made no commitment to adopt or not to adopt this particular method or program until the appropriate staff investigated the method. After consultation with the Minnesota and South Dakota Right-to-Read directors and the state department special education directors, we were informed the Orton-Gillingham method was being used only on a minimal basis, and that dyslexia was handled under special education in the state. This action not to use the Orton-Gillingham method was a professional decision and, we understand, did not meet all special interest groups' wishes.

Agreed, there has been much confusion on this program and contract. The writer feels a great deal of this confusion comes when the S.I.E.C. and Tribal Council negated a valid contract and is now holding the basic support payment as a threat to initiate the S.I.E.C.'s program. Our main concern here is that basic support dollars should not be confused with supplemental type programs.

The bottom portion of page 4 refers to a drop out prevention study. This proposal was not presented until January of 1978 and is in the process of being reviewed by the principal and staff. To my knowledge, no S.I.E.C. contract has been presented for consideration to date.

I would suggest the S.I.E.C. consider legal action if in fact no counseling is being afforded Indian students. The project director's investigation in this writer's opinion leaves something to be desired, namely, the truth!

The S.I.E.C. has never approached the Board of Education or administration in reference to a summer tutoring program or a summer bilingual teacher training program.

Former S.I.E.C. members and School Board members have negotiated contracts quite amiably up until the implementation of P.L. 638. Communications were two-fold up until the last two to three years. The writer can only speculate what happened to the good intentions shown at the time of reorganization. See enclosure #4.

This is one of the few areas this writer can agree with the S.I.E.C., that a working relationship has been severed. This writer would reserve the right to disagree as to its cause as presented.

Inference has been made by the S.I.E.C. several times during this testimony that the Board of Education has refused to negotiate, attend meetings, etc. The Board of Education must go on record refuting this allegation, as there is no substance to any of the charges; in fact, quite the opposite is true. The Board of Education on occasion has waited two to three hours for the S.I.E.C. to gain a quorum, which was never attained. Please see enclosures #5 and 6.

RESPONSE TO THE S.I.E.C.'s RECOMMENDATIONS WITH L.E.A. PROBLEMS:

1) We would question the S.I.E.C.'s phrase 'similar powers'. It is our understanding the Tribal Council was the contracting power under the Johnson O'Malley supplemental programs, and we know of no plan to change supplemental program procedure.

2) No duly elected body with tort responsibilities can make promises alluded to by the S.I.E.C. as to program implementation.

3) We believe the plan presented here would be illegal up until such time as state and federal election laws are changed. Does it seem feasible to change the "one person-one vote" rule?

4) The presenter requests that P.L. 9810 include funds for the purchase of school property. This leaves us in a bit of a quandary as at present the public schools are adequate in buildings and facilities. In the event this should change, the school district owns an additional 100 acres adjoining the present high school.

5) In our case, the appropriations language is quite clear.

6) This would lead one to believe the real issue here is segregation, and it is still our Board's contention that the integrated approach is the way to go.

7) It is a state law in South Dakota that dictates to Boards of Education that they have open budget hearings. These hearings also require published facts and time for patrons to bring questions to the floor.

A Project In Bi-Rac
Sisseton School District Reorganize

A project in cooperation is going on in the Sisseton area. It is between Indian and non-Indian—or white and non-white—and a major piece of the project is centered in the educational facilities of the area.

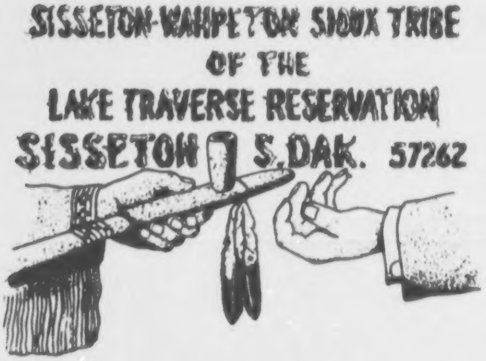
Of the 1,619 students in the school, more than 26 percent are of at least one-quarter Indian blood, and about 22 percent of the land area of the district is owned by the Sisseton-Wahpeton Sioux.*

The ethnic situation is reflected in the area growth of the district, its finances, building program, administration and governance, curriculum, and concerns for improved home life. All are inter-twined.

Plans In 1960

Harlan Hammer, a long-time member of the board of education, says added emphasis on cooperation started back in 1960 when the board and former Supt. P. A. Setnes were thinking about a planning grant to enlarge the vocational area of the present high school building. As he recalls it, one time when Rep. Ben Reifel was in Sisseton, the board invited the congressman to a meeting to discuss the matter. At this meeting, the topics focused on curriculum and the establishment of a boarding school.

But the board of education didn't like the idea of a boarding school, and the Bureau of Indian Affairs was more concerned about posi-



Of the 1,619 students in the Sisseton Public Schools, 429 or more than 26 percent, are of at least one-quarter Indian blood. Considerable Indian enrollment is also included in public schools of Wilmot, Summit, Waubay and Veblen.

To emphasize cooperative attitudes and programs between Indian and non-Indian populations in the area, the Sisseton-Wahpeton Sioux Tribe last year sponsored a contest among Indian students attending schools in the area. Contest winner chosen by a committee of the Tribal Council was a senior high student at Wilmot, who submitted a drawing that contained the concept depicted by the hands and peace pipe pictured here.

---

*The Sisseton-Wahpeton Sioux reservation consists of individually owned parcels and some tribally owned parcels within the confines of the original reservation. It is called an "open reservation."

Land owned by the tribe is called "trust land," and is the only part of the reservation where tribal law prevails.

Other parts of the original reservation which have not been retained by individual members or the tribe, were first transferred by sale to the federal government which in turn offered the land under terms of the Homestead Act.

operation For Education
pands, Builds, Shows Flexibility

bilities for integration and school district reorganization in the entire area.

The board then decided to arrange for a reorganization election. Members recognized that inclusion of the Peever district would be vital to the overall program. They calculated, too, that the proposal would be passed in the outlying areas, but that Sisseton voters would disapprove.

The first vote failed, but just the opposite of what they had anticipated happened; Sisseton voters approved, and the election failed in outlying areas. So in cooperation with other districts, the board went to work with another proposal, first getting a commitment of approval from the Sisseton Wahpeton Sioux, but again recognizing that the proposal would have to be approved in both Sisseton and Peever if their aspirations were to be realized.

Reaching The Plateau

The second election was successful enough so that the board felt it had reached its first "plateau" by July 1, 1966. In counting the 13 districts which had been added in whole or in part by 1965, along with the Peever Independent district and the 23 others which were added in whole or in part in 1966, the Sisseton board and community felt they could begin to think in terms of new educational opportunities which could be given only preliminary consideration in previous deliberations.

Building Program

Now, too, the district was to have a new board enlarged from five to nine members, with four of them elected at large from the outlying areas, and a firm decision was made to investigate a building program to provide for all children in the district.

This program included plans for a new elementary building at Peever and a new high school and elementary school in Sisseton. Plans also included some remodeling of the present high school building to convert it to a middle school.

Most urgently needed were facilities for elementary students. A brochure circulated in 1967 which presented information relative to bonding for the Westside Elementary school in Sisseton, stated that the district was spending $22,000 annually just to rent club rooms and church facilities for education of elementary students. It stated that some children, then in junior high school, had spent all their school years in these makeshift, rented facilities.

The brochure stated the new

Indian Voice In Educational Affairs

Three Indian people with significant roles in educational affairs of the Sisseton-Wahpeton Tribe and in providing advice to the Sisseton school system are shown in this picture with Supt. M. J. Rabenberg, standing at right. The three, from left, are Chris Johnson, Tribal secretary; Mrs. Hildreth Venegas and Emmett Roberts.

In addition to being members of an advisory council to the school, they serve on a 10-member Tribal council, and Mrs. Venegas is Tribal treasurer. Johnson is employed as deputy director of the Northeast South Dakota Community Action Program. Mrs. Venegas is employed at the Public Health Service Hospital, and Roberts works for the Bureau of Indian Affairs as an adult education aide.

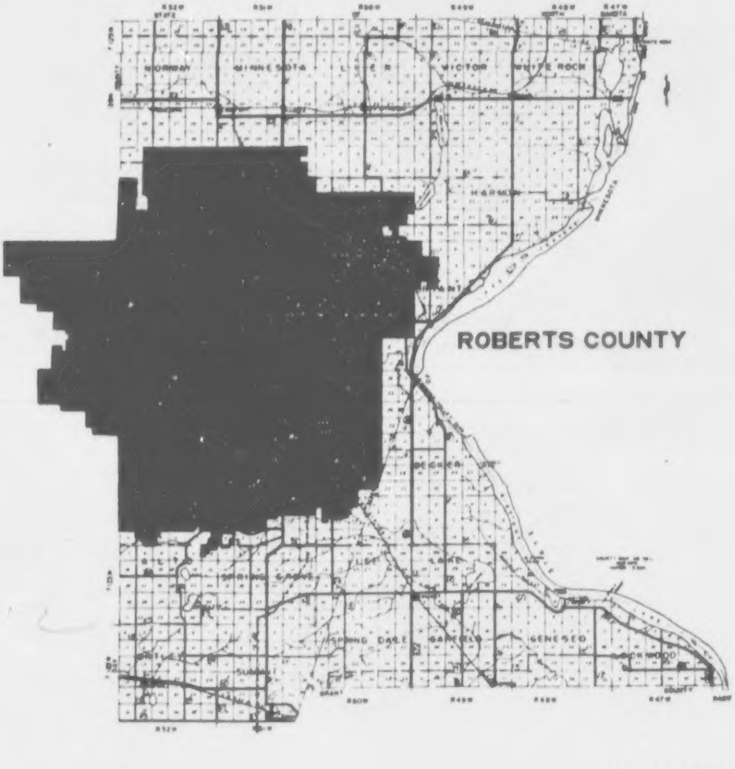
building and site, complete with fixtures, was to cost $626,750. The amount included an allowance under PL 815 amounting to $83,980. Following the successful bonding election, 20-year bonds were sold at an average interest rate of 4.91742 with right of recall if the upward interest trend is reversed.

Construction of the $971,600 elementary school building at Peever and the $3½ million high school at Sisseton has been brought about by negotiations of the Sisseton District, Bureau of Indian Affairs and Sisseton-Wahpeton Sioux Tribe with the federal government. Erection has resulted from a federal appropriation obtained through the help of Senators Karl Mundt and George McGovern and Rep. Ben Reifel.

In obtaining the appropriation to finance the high school building, however, the district was required to furnish a suitable site, so in February of 1968, the district formally deeded "65 acres, more or less" to the U. S. Government which will be deeded back to the school district, along with the building approximately one year after the build-

The Sisseton School District in Roberts & Marshall Counties

(Darkened Area Indicates Size Of District)



ing has been completed. All three buildings are expected to be ready for occupancy this fall.

Alterations to convert the present high school building to a middle school will be done this summer by the custodial staff. Regular capital outlay funds will be used to finance the project.

Revenues

To finance overall operations of the district this year, it was estimated that the total necessary would be $1,205,459. The following chart shows the actual income from various revenue sources in 1968-69 and the estimated income from the various sources in 1969-70.

Revenue

Source	1968-69 Actual Income	1969-70 Estimated Income
State Aid	106,805.40	110,000.00
Apportionment	31,143.73	32,000.00
Tuition	7,697.37	2,000.00
Special	16,000.00	10,000.00
		11,000.00
Johnson O'Malley	201,950.88	225,500.00
ESEA I	114,886.37	100,000.00
II	5,127.92	2,500.00
III	5,823.56	
NDEA III		4,000.00
P.L. 874	56,505.00	89,068.00
Voc Ag Home Ec	8,762.56	9,000.00
Farm rent & Misc.	21,911.86	21,000.00
Guidance	12,000.00	8,000.00
Headstart Bus		4,000.00
Lunch Fund	25,000.00	20,000.00
Gen. Fund Taxes	413,935.22	403,142.00
Special Ed.	11,628.84	14,658.00
Capital Outlay	68,497.14	73,291.00
Bond Redemption	22,318.83	66,300.00
TOTALS	1,129,994.68	1,205,459.00

Specially noticeable to some readers because the items are not usual to their districts are the Johnson O'Malley and the P. L. 874 items.

Joint Benefits

Mrs. Fonty Dady, who prepares a monthly publication for the school that is circulated as a supplement to the *Sisseton Courier*, says, "When you describe our school on this open reservation, you may find it hard to make clear who does what for whom. Some funds and programs which benefit our school are available only because they benefit Indian students, yet many of these benefit the whole school population. Other projects initiated by the school to fit the individualized needs of all students turn out to concern a high proportion of Indian students."

In discussing whether Indian students are provided special activities which non-Indian youngsters do not have, she says, "Sometimes."

Special services provided through the Bureau of Indian Affairs for Indian students are coordinated with the school program. Time and space within the school is used for some of these, such as a recent special session for Indian seniors to acquaint them with scholarships and training available only to Indian students. For other special services—dental and vision appointments, skill testing, etc.—school administrators not only arrange for students to be excused, but help to schedule time and to issue reminders to be sure Indian students avail themselves of these services.

For these specialized programs, Indian students can be said to be "singled out." In addition, a column in the high school newspaper is devoted to news and names of Indian students only, written by an Indian columnist.

Regarding another question — as to whether the Indian students get a "fair share" of the broad programs the school provides for all students, administrators point out these facets of the school:

- The Initial Teaching Alphabet "experimental" rooms in the primary grades include Indian children, and many of the school's teacher aides are Indian women;
- Basic English offered in grades 9-12 for those with low reading skills includes some Indian students, but many others are in regular English classes and some are in college preparatory English;
- Although few Indian students are in band, many participate in chorus and wrestling. Few play basketball although Sisseton has had some "greats" in past years. Among wrestlers, Indian boys have excelled;
- One Indian student is class president for the second time, and the student body last year chose an Indian girl as their homecoming princess, a common occurence when an Indian girl is nominated;
- Many Indian students are enrolled in home economics, which

Numerical Facts About The Sisseton School District

The reorganized Sisseton school district covers an area in Roberts and Marshall Counties of about 436.5 square miles. Stated another way, the district size is about 20 by 25 square miles. Assessed valuation of its agricultural property is $10,324,351; that of non-agricultural property is $6,213,587.

About 22 percent of the land area of the district is Indian tribal land owned by members of the Sisseton-Wahpeton Sioux Tribe.

Most of the growth of the district began in 1965 when all or parts of 13 districts were attached. In 1956, all or parts of 24 districts were attached, followed in 1967 by one. In 1958 all or parts of three were attached, in 1969, parts of two, and in 1970, all or parts of six. Final figures to date show the district is comprised of two former independent districts and all or parts of 34 former common districts.

The growth is reflected in another way by the budgets adopted for general fund purposes. In 1963-64, the budget was $370,450. In succeeding years, budgets for general fund were $481,525, $606,069, $869,368, $963,836, $1,046,275, and in 1969-70 the general fund budget is $1,205,459.

Mill levy for general fund purposes on non-agricultural property is just short of 38 mills; on agricultural property, it is just short of 23 mills. An additional 1.5 mills is levied for special education.

Levy in 1969-70 for bond redemption is 5.90 mills. Before their last bond issue totaling $545,000, it was 2.31. The levy is expected to drop to 3.59 mills after this year when a previous bond issue will be paid. The district has been levying at about five mills each of the last five years for capital outlay.

they seem to consider an especially practicable course. In a unit last year involving the care of babies, an Indian girl who had dropped out to marry, but then returned to school, increased the relevance of the unit by bringing her baby to class.

The high school dropout frequency is a matter of particular concern in a school such as Sisseton where the Indian enrollment is substantial. Moreover, any figures on dropouts will include quite a few who drop out several times, and the statistics look more bleak when a school is successful in its efforts to re-enroll these "high potential" dropouts.

The following chart, prepared by High School Principal Clarence Williams presents statistics for both Indian and non-Indian students at Sisseton for the period 1958-59 through 1967-68.

DROP OUT SURVEY 1958-1968

Year	% of Drop Outs All Students	% of Drop Outs Non-Indians	% of Drop Outs Indian Students	Number of Indian Students Enrolled	Total Enrollments
1967-68	6.80%	3.16%	24.17%	91	470
1966-67	3.87	1.03	14.85	101	495
1965-66	6.76	.063	14.60	89	444
1964-65	6.19	3.15	15.58	77	452
1963-64	2.87	.860	12.30	65	418
1962-63	6.76	2.19	23.43	64	365
1961-62	3.71	3.14	4.04	63	371
1960-61	4.76	3.41	17.89	66	368
1959-60	4.19	2.87	12.42	39	358
1958-59	6.66	5.46	29.41	51	341

National Recognition

The special efforts undertaken by the Sisseton school to serve the community received national recognition in the spring of 1966 when the Sisseton board of education was one of two in the nation that received the Thom McAn Award, developed in conjunction with the NEA Association of Classroom Teachers and *Parade Magazine*.

Among ways it continues to provide for community needs are co-operative programs with the Public Health Service and counseling service with BIA agencies.

Curriculum

It also has instituted or has plans for adapting its curricular offerings to more adequately serve the community needs.

The "continuous progress program" was initiated in the elementary school in 1966-67 to make better provision for individualized instruction. Teacher aides have been employed and team teaching is being used.

The traditional type report card has been replaced by conferences and home visits, and Elementary School Principal Curtis Olson says workships sponsored by the Bureau of Indian Affairs and the Lake Region Planning Center have helped teachers to gain a better understanding of the needs of the children. He looks forward to differentiated staffing.

R. J. Haring, current principal of the junior high school who will become principal this fall of the middle school, says the change to a middle school is to be made to improve opportunities to develop basic learning skills and to provide opportunities throughout the year to explore many areas in which youth of this age have an interest.

In addition, Haring says the curriculum for social science and language arts will make provision for the study of American Indian cultures among other cultures, and take into account the contributions that they have made to the general culture of American society.

Regarding the high school scheduling and curriculum next year, Principal Williams says students will be on a modular type schedule. He says there is no space for the traditional type study hall included in the new building.

He says that currently, some high school teachers are engaging in team teaching and individualizing instruction, and these practices will be expanded next year when improved facilities and additional resources become available. They also intend to use more lay people as resource people, particularly in the matter of Indian culture. Currently,

---

Sisseton School Buses Travel 360,000 Miles Annually

Forty-seven percent of students in the Sisseton district last year rode buses to school. Covering 20 routes in the 20 by 25-square mile district are 16 district owned buses. It also has three vans.

Buses now travel about 360,000 miles annually, and this figure is expected to increase next year.

One of the drivers, Mrs. Violet King Kirley, is shown with Leroy Quinn, bus mechanic. "Porky Pig" decal on this bus is one of several different decals used to assist kindergartners in finding the bus assigned to their route. Radio contact between the central administrative office and the buses is another feature of the district transportation service.

SDEA JOURNAL,

Groundbreaking Ceremonies for Peever School

The Peever community will have a new $971,600 elementary school in its town this fall to replace a building that has had two frame structures added, but was essentially completed in 1912. Pre-requisites for obtaining a federal appropriation for construction of the new building were the joining of the Sisseton and Peever districts and approval of the Sisseton-Wahpeton Sioux Tribe.

Interest and work of the two Indian women at left in achieving the pre-requisites was recognized during ground-breaking ceremonies in May, 1969. From left, they are Mrs. Jeannette Crawford and Mrs. Irene Granes. With them, from left, are U.S. Senator Karl Mundt, State Supt. Gordon Diedtrich, and U.S. Rep. Ben Reifel.

The Peever district became part of the Sisseton school system in 1966.

---

two courses are being tried. One is "Acculturation Psychology"; the other is "American Indian Studies."

Tribal Viewpoints

On the whole matter of education in the community, Tribal Secretary Chris Johnson sees considerable progress, but he also points to areas needing improvement.

In progress directly involving Indians, he notes an Indian advisory council has been formed to work with the board of education, that the Sisseton Parent-Teacher Association has an Indian officer, and there is an Indian member on the board of education for the first time.

But Johnson says, "We have problems!" One of these, according to Johnson, is the scared feeling that Indian kids get from the size of a big school building. "It's a monster to them"! he says, and they need more than usual orientation.

But Secretary Johnson says the greatest problem in Indian education in any school system is Indian people, themselves. He expressed it this way: "As Indian parents, we should be more concerned, more interested and participate more."

Regarding services of the school itself, Johnson cites a need for improved communication, and he hopes for a better understanding of Indian home conditions. On the matter of curriculum, he says some things have been done "to speak directly to Indian children, but more should be done." He assumes they will be. And he believes that home conditions for many Indians will be improved by a low rent housing project that includes construction of 80 homes in Sisseton and 20 in the old agency district. Construction was to begin in April.

Optimism

Mrs. Dody speaking with the approval of the administration, offers an optimistic outlook. She believes that the new, cooperatively built schools will result in greater opportunity for all students in the system, and that current efforts to provide everything for everybody at the present far-flung locations will be increased.

Among examples of current efforts, she cites the following:

- The elementary physical education teacher and teacher aide run from building to building, even hauling equipment with them, because they believe physical education is really important;

- Hot lunches are prepared at both the Central Building and Peever, with the same menu delivered and served everywhere;

- High school athletic practices are scheduled within the school day to be sure that no after-school job or transportation problem keeps anyone from participating;

- Shop and art classes are "everybody-oriented," and include projects such as Indian beadwork and raising corn for the Tribal Fair;

- The elementary school operates a resource center delivery service along with the inter-school mail so that everyone everywhere can use all the machines and other learning helps, and get the frequently changed texts that are part of the "continuous progress" program.

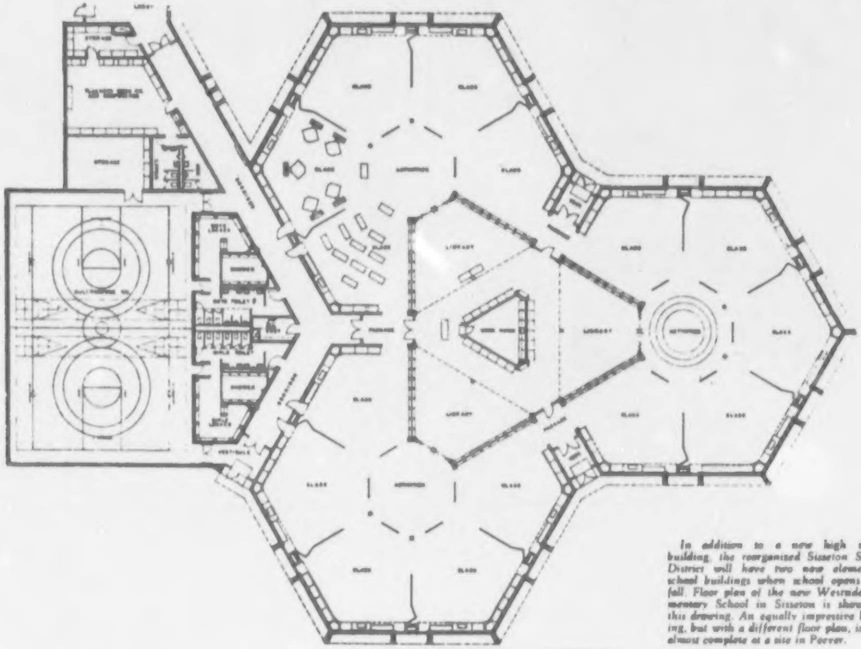
Key Problems

Supt. Rabenberg adds that many of the projects completed in the Sisseton Independent School District came about as the result of much long-range planning over the past five to six years. He says that communication and willingness by all concerned would have to be cited as the key to any success they have enjoyed.

The largest problems, according to Rabenberg, are budgeting and fiscal accounting.

He says, "Most of the funds we apply for are on a formula or a need basis and vary according to the whims of Congress or the guidelines of the Department of Health Education and Welfare. We find it very

Floor Plan of One of Two New Elementary Schools to Open in Sisseton District this Fall



In addition to a new high school building, the reorganized Sisseton School District will have two new elementary school buildings when school opens next fall. Floor plan of the new Westside Elementary School in Sisseton is shown in this drawing. An equally impressive building, but with a different floor plan, is now almost complete at a site in Peever.

Cooperative Programs in Health Services, Administration, Cultural Life . . .

Because of outbreak of German measles throughout the U. S. was feared this year, the U. S. Public Health Service urged a national immunization program for school age children below the fifth grade.

In Sisseton, it resulted in a cooperative effort in the schools for children of both Indian and Caucasian descent to be immunized. Those of Indian descent would otherwise have had immunization provided at the Public Health Service Building, but done in school this way, time is saved and better health service for all of the children is administered. Lady sitting in front is Mrs. Esther Haring, public health nurse for the Sisseton area. At other end of table is Miss Alvina Opitz, school nurse. Just back of her is Mrs. Bess Brant, one of 12 teacher aides in the system.

difficult to project our budget two to three years in advance, but even after this is done, we sometimes find out the formula has been redesigned or is being paid at a percentage of the proportionate share of money still available after all the Bureau of the Budget cuts. You would have to live with this type of budgeting to appreciate the problems that arise.

"We have many problems other than financial, but I feel the majority of our community has adopted the philosophy, so ably stated in the 12th recommendation of the Domian Study which reads, 'Integrate programs so that Indian children will be accepted and educated in a manner which gives them a real opportunity to become productive members of society.' Really, this is the basic hope all administrations have for all their students regardless of background or skin color. With this in mind, I feel our community and student body will continue to handle the problems as they continue to arise—and arise they will!"

Opportunity for recognition of contributions of Indian culture is provided for in the Sisseton High school newspaper, the "Hi-Life." It regularly contains a column with the title, "Indian Beat," that is written this year by Martha Renville. She is shown here with Hi-Life adviser Mrs. Fenty Dody.

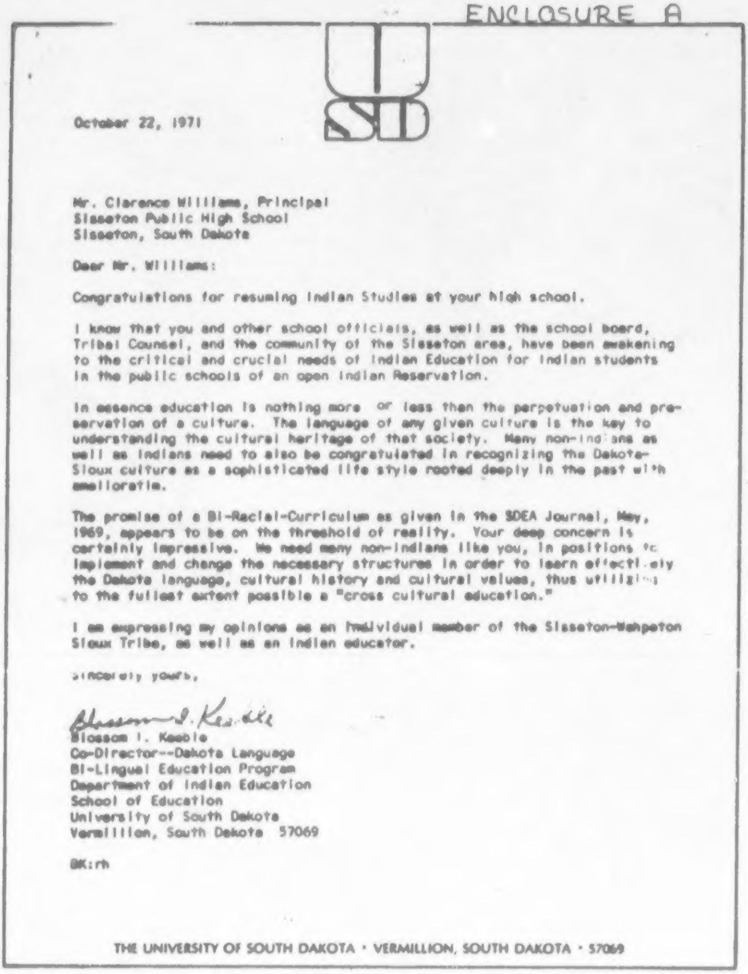
Subject in one of the recent columns was the U. S. flag that hangs in the Sisseton High School lobby. The column told of its history, dating to 1851, when it was presented to one of the chiefs at the end of a negotiations ceremony with a U. S. Indian commissioner. The column reports it was "presented to Sisseton school for safe-keeping by Moses Williams, to whom it was descended from Red Cloud."

Mrs. Dody said that Martha's father was in Europe on March 5 when this picture was taken. He was with a group of Indian dancers on a four-month tour.

Ten people at an initial meeting arranged by Supt. M. J. Rabenberg to help provide information for this article re-grouped themselves for this photo. Standing, from left, are Harlan Hammer, board of education member, Harry Fowler, business manager, Supt. Rabenberg, and Bill Streitz, Agency superintendent for the Bureau of Indian Affairs.

Seated, from left, are Richard Haring, middle school principal, Curt Olson, elementary principal, Frank Fdipek, curriculum director, Clarence Williams, high school principal, Dick Lucas, high school counselor, and Mrs. Fenty Dody, publications specialist and English teacher.

ENCLOSURE A



October 22, 1971

Mr. Clarence Williams, Principal
Sisseton Public High School
Sisseton, South Dakota

Dear Mr. Williams:

Congratulations for resuming Indian Studies at your high school.

I know that you and other school officials, as well as the school board, Tribal Counsel, and the community of the Sisseton area, have been awakening to the critical and crucial needs of Indian Education for Indian students in the public schools of an open Indian Reservation.

In essence education is nothing more or less than the perpetuation and preservation of a culture. The language of any given culture is the key to understanding the cultural heritage of that society. Many non-Indians as well as Indians need to also be congratulated in recognizing the Dakota-Sioux culture as a sophisticated life style rooted deeply in the past with amelioratim.

The promise of a Bi-Racial-Curriculum as given in the SDEA Journal, May, 1969, appears to be on the threshold of reality. Your deep concern is certainly impressive. We need many non-Indians like you, in positions to implement and change the necessary structures in order to learn effectively the Dakota language, cultural history and cultural values, thus utilizing to the fullest extent possible a "cross cultural education."

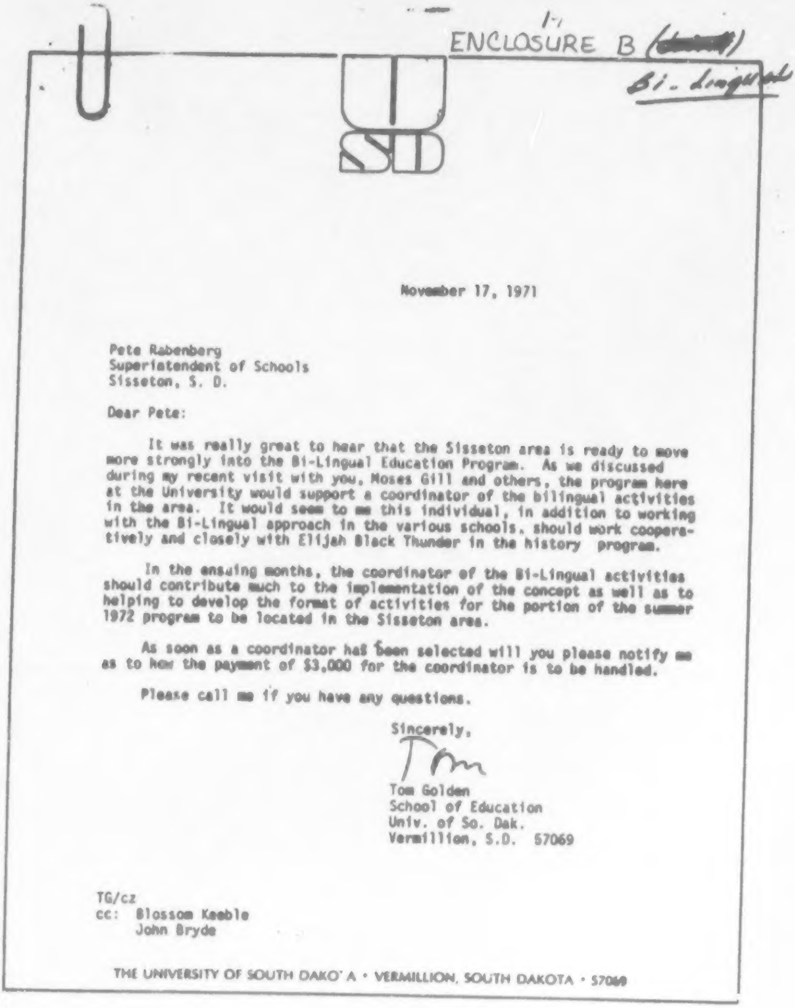
I am expressing my opinions as an individual member of the Sisseton-Wahpeton Sioux Tribe, as well as an Indian educator.

Sincerely yours,

Blossom I. Keeble
Blossom I. Keeble
Co-Director--Dakota Language
Bi-Lingual Education Program
Department of Indian Education
School of Education
University of South Dakota
Vermillion, South Dakota 57069

BK:rh

THE UNIVERSITY OF SOUTH DAKOTA · VERMILLION, SOUTH DAKOTA · 57069



1-7

ENCLOSURE B (~~[illegible]~~)

Bi-Lingual

USD

November 17, 1971

Pete Rabenberg
Superintendent of Schools
Sisseton, S. D.

Dear Pete:

It was really great to hear that the Sisseton area is ready to move more strongly into the Bi-Lingual Education Program. As we discussed during my recent visit with you, Moses Gill and others, the program here at the University would support a coordinator of the bilingual activities in the area. It would seem to me this individual, in addition to working with the Bi-Lingual approach in the various schools, should work cooperatively and closely with Elijah Black Thunder in the history program.

In the ensuing months, the coordinator of the Bi-Lingual activities should contribute much to the implementation of the concept as well as to helping to develop the format of activities for the portion of the summer 1972 program to be located in the Sisseton area.

As soon as a coordinator has been selected will you please notify me as to how the payment of $3,000 for the coordinator is to be handled.

Please call me if you have any questions.

Sincerely,

Tom

Tom Golden
School of Education
Univ. of So. Dak.
Vermillion, S.D. 57069

TG/cz
cc: Blossom Keeble
John Bryde

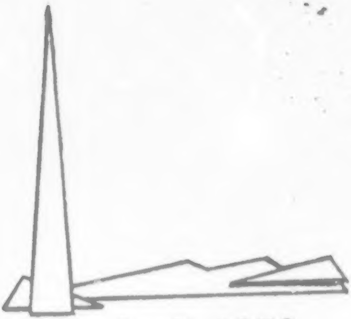
THE UNIVERSITY OF SOUTH DAKOTA • VERMILLION, SOUTH DAKOTA • 57069

ENCLOSURE C

NEWSLETTER

Center of

Indian Studies



April, 1976

BLACK HILLS STATE COLLEGE
SPEARFISH, SOUTH DAKOTA

CIS STAFF TRAVELS

Several members of the Center of Indian Studies (CIS) staff, Ray Howe, Tom Colhoff, Monica Garreau, Dave Mathieu, and Dick Thompson, began an inservice course (ED 349) February 27 with the Rapid City Head Start teachers and aides. The basic purpose of the program is to examine and evaluate the existing curriculum and to design a model for inserting sets of Indian curricula. A series of follow-up meetings will continue throughout the academic year.

On March 10, Center of Indian Studies Director Lowell Amiotte and Dick Thompson met with members of the Department of Health Education in Rapid City regarding health programs for Indian schools. Chief Roy Davis of the Center of Disease Control explained the school health curriculum project which the Bureau of Indian Affairs may incorporate in their schools. They discussed the possibility of Black Hills State College acting as the credit-granting institution for training workshops.

March 11 and 12, Lowell Amiotte, Ray Howe, Dick Thompson, and Tom Colhoff were in Denver and Boulder, Colorado. They met with consultants from the University of Colorado regarding the Graduate Program for Reservation Community Colleges and with representatives of the Coalition of Indian Controlled School Boards and the General Assistance Center from Weber College, Ogden, Utah, regarding bilingual and cross-cultural programs.

Much traveling has been done on behalf of Financial Aids. John Gritts, Assistant Financial Aids Director, participated in a Health Career Workshop in Rapid City on March 5. This workshop was sponsored by United Sioux Tribes of Pierre. He talked with a number of students about financial aid application procedures.

On March 1, 2, and 3, Wayne DeSart, Financial Aids Director, and John were in Rosebud to meet with high school seniors at Todd County and St. Francis, but because of adverse weather conditions, these meetings were cancelled. However, they were able to meet with the Financial Aids Committee at Sinte Gleska College.

During the week of March 8, John and Art Quinn traveled extensively throughout the state visiting Upward Bound Students and assisting students planning to attend Black Hills State College with the financial aids applications.

On March 15 John and Wayne traveled to Pine Ridge to assist students at Holy Rosary and Oglala Community School and Lakota Higher Education Center in completing their financial aids applications.

•••••••••• •••••••••• ••••••••••

SISSETON BICULTURAL PROGRAM VISITED

Congratulations to Elijah Blackthunder and the staff of the Sisseton Public Schools for a leadership role in bicultural education.

Ray Moss and Tom Colhoff of the Center of Indian Studies at Black Hills State College recently visited the bicultural program at Sisseton and were very impressed with the overall program, particularly the extent of harmonious integration within the total school curriculum.

Bicultural education at Sisseton enjoys an equitable academic status in the realization of three major goals of all cross-cultural education: (a) to increase student achievement in course content areas; (b) to increase knowledge of and proficiency in native and second languages; (c) to develop in students positive self-concepts.

Good things are happening in Indian education! Sisseton has a model to emulate.

********** ********** **********

BILINGUAL-BICULTURAL EDUCATION

Several members of the Center of Indian Studies staff met recently with representatives of the Coalition of Indian Controlled School Boards of Boulder, Colorado, and the Region VIII General Assistance Center of Weber State College, Ogden, Utah, to discuss the possibility of bicultural education programs for western South Dakota. Proposal guidelines were reviewed and eligibility requirements were discussed.

Black Hills State College was encouraged to submit an instructional staff training proposal for a bilingual-bicultural program for the 1976-1977 school year for target schools in western South Dakota. A follow-up meeting was scheduled for April.

********** ********** **********

CIS AIDS RAPID CITY HEAD START STAFF

The Center of Indian Studies is assisting the Rapid City Head Start staff in developing Indian Studies curricula for preschool children.

Too often, preschool and elementary school children relate to the Indian culture only through a bulletin board display and an "Indian Day" or "Indian Week." Following such cultural paroxysm, the Indians are put away until next year.

The Head Start staff members intend to develop sets of Indian curricula that can be inserted into their existing curriculum in a natural, ongoing manner. The Center of Indian Studies is helping devise the model for developing and inserting such sets of temporary Indian curricula, along with procedures for evaluation and renovation.

Provisions are being made to disseminate the completed model. If you are interested in receiving further information regarding such a model, contact the Center of Indian Studies, Black Hills State College, Spearfish, South Dakota 57783

AGREEMENT

That in consideration of the sum of $354,599 of Johnson O'Malley funds, the Sisseton School District No. 54-5 and the Sisseton Indian Education Committee hereby establish the school district as a subcontractor with the Sisseton-Wahpeton Sioux Tribe and the school district and the committee hereby agree that the provisions of the application attached hereto are hereby made a part of this agreement as may be required by the Bureau of Indian Affairs and shall be a part of this agreement insofar as they are in conformance with the terms and conditions of this agreement as hereinafter set forth.

TERMS AND CONDITIONS

Notwithstanding the attached provisions, the Sisseton Indian Education Committee and the Sisseton School Board will function in this agreement as follows:

I. GRIEVANCE PROCEDURE

A Grievance Procedure shall be created to hear and investigate grievances from parents and students. A student or parent may submit a grievance in writing to the principal. Should the grievance not be satisfactorily resolved by the principal, appeal may be made to the school superintendent, then to the Board of Education. Prior to the submission of a grievance to the principal, the student or parent may request the assistance of the SIEC or the school counselor in preparing the grievance. In addition, the grievance may first be submitted to the school counselor.

II. ACCESS TO TEST RESULTS

Pre- and post-test standardized results for Indian students will be made available to the SIEC. This information will be in the form of a statistical printout so as not to violate the aspects of the Privacy

Act. This statistical information would be treated by the SIEC as confidential material. The state and national averages will be made available.

III. IN-SERVICE TRAINING

The Sisseton Public Schools will hold one day of in-service training in January, 1977. This in-service will be coordinated by the Sisseton school's Indian Affairs Coordinator, principals, teacher representatives and the SIEC.

IV. REVIEW OF TEXTBOOKS AND INSTRUCTIONAL MATERIALS

The SIEC shall appoint a local committee to review all textbooks, library material, and other instructional material and determine whether a fair and balanced view of American Indian culture and history are presented. The examination will be conducted at a time that will not conflict with regular instruction program. The SIEC shall present their recommendation to the School Board.

V. LYCEUM PROGRAM

The District will provide lyceum type programs on American Indian history and culture. The SIEC will work with the District in developing programs.

VI. FACILITIES

The School Board will provide a gym three nights a week in the O. K. Smollehaug Middle School and one night per month at Peever for $20 per night for use by all students. If conflict should arise, the elementary gym will be substituted. These activities will be chaperoned and supervised by the SIEC.

VII. BUDGET ALLOCATION

Contracted Johnson O'Malley basic support dollars will appear in the budget of the Sisseton School District as follows:

100	Administration	20.921%	39,034.51
200	Instruction	20.921%	224,598.26
500	Pupil Transportation	20.921%	26,232.06
600	Operation of Plant	20.921%	64,674.17
			$354,539.00

VIII. RESOLUTION OF QUESTIONS

It is hereby understood that both the SIEC and the Sisseton School Board will jointly, with a quorum of both Boards present, meet to resolve any questions regarding the attached subcontract.

IX. TERMS OF THE CONTRACT

It is also understood that any disapproval of any school district programs on the part of the SIEC will not invalidate the 1976-77 Johnson O'Malley subcontract, nor will it allow for the withdrawal of contracted dollars unless the school district violates the terms of these nine negotiated items.

Agreed to this 5th day of October, 1976.

Celine Buckanaga, Chairman
Sisseton Indian Education Committee

LeRoy Hellwig, Chairman
School Board

ENCLOSURE #3

CONTRACT FOR JOHNSON O'MALLEY

SUPPLEMENTAL PROGRAM

The Sisseton Wahpeton Sioux Tribe and Sisseton Indian Education Committee hereby establish the Sisseton School District No. 54-5 as a subcontracter for a Reading Development Center program involving a pilot program with not more than 25 students in grade 9 level.

The Sisseton Wahpeton Sioux Tribe agrees that payments for this program will be from Johnson O'Malley supplemental funds on a monthly cost reimbursable basis not to exceed $8,616.73. The term of the Contract shall extend from October 1, 1977 through June 30, 1978.

The School Board agrees to the following Conditions:

1) To poll all parents for student involvement.

2) To provide one certified teacher at the 9th grade level who would be responsible for planning, development, operation and evaluation of this program.

3) To provide one or two teacher aides, as enrollment dictates, who would be under the direction of the certified teacher.

4) To provide job descriptions which will prescribe duties and responsibilities of personnel involved in this program.

5) To provide materials as may be necessary. Expenditures for such materials must be made through proper channels, those being 1) teacher, 2) principal, 3) business manager and 4) School Board.

6) To provide monthly reports to SIEC.

7) To provide a final report on program results at the end of the school year.

This program will be under the direct supervision of the principals involved, and all School Board policies will prevail.

Item VIII of the Johnson O'Malley Operational Support Agreement will be the method to determine points in question regarding this subcontract.

Agreed to this 1st day of October, 1977.

Celine Buckanaga
Celine Buckanaga, Chairperson
Sisseton Indian Education Committee

LeRoy Hellwig, Chairman
School Board

Jerry Flute
Jerry Flute, Chairman
Sisseton-Wahpeton Sioux Tribe

SISSETON-WAHPETON SIOUX TRIBE
OF THE
LAKE TRAVERSE RESERVATION
SISSETON, S.DAK. 57262

April 7, 1970

Board of Education
Sisseton Independent School District #1
Sisseton, South Dakota 57262

Gentlemen:

Please accept this letter as a letter of consent from the Sisseton-Wahpeton Sioux Tribal Council on behalf of the Sisseton-Wahpeton Sioux Tribe, as it applies to the Peever School complex.

More specifically, the regulations addresses itself as follows:

Consent of Indians. The Act of June 4, 1953, also provides that the consent of the beneficial owner shall be obtained before there is a conveyance of title to land held by the United States in trust for an individual Indian or Indian Tribe.

Where individual Indians are the beneficial owners of such land, evidence of their consent should be obtained.

Although the property in question was not the property of an individual Indian or Indian Tribe, the Sisseton-Wahpeton Sioux Tribal Council recommends and endorses the transfer of Title of the Peever School and land from the United States to the Sisseton-Independent School District #1.

Authorization for this letter of consent was given by the Sisseton-Wahpeton Sioux Tribal Council at a regular Tribal Council meeting held April 7, 1970, Sisseton, South Dakota, with a quorum present.

Sincerely,

Willard LaFromboise

Willard LaFromboise
Chairman, Sisseton-Wahpeton Sioux
Tribal Council

WLF:jp

Ex #5 1066

ACTION NO. 1492 A motion was made by D. Hanson and seconded by W. Johnson that the meeting be adjourned. Upon roll call vote being taken, the following voted in favor thereof: L. Hellwig, C. Wagleitner, L. Lekness, W. Johnson, M. Leiseth, D. Hanson, and J. Wenschlag

and the following voted against: None

absent: M. Hannasch and A. Weinkauf

Whereupon the motion carried.

DATE 9/14/76

APPROVED

Cheryl A Karst
Business Manager

SPECIAL SCHOOL BOARD PROCEEDINGS

August 23, 1976

The School Board of Sisseton School District No. 54-5 met in special session Monday, August 23, 1976, at 1:00 p.m. in the boardroom at O. K. Tollefsrud Middle School for the purpose of finalizing a Johnson O'Malley basic support contract.

Members in attendance were: W. Johnson, M. Hannasch, L. Lekness, M. Leiseth, C. Wagleitner, J. Wenschlag and L. Hellwig

Absent: A. Weinkauf and D. Hanson

Others in attendance were: M. J. Rabenberg, Cheryl Karst and Max Fisher

Pres. Hellwig called the meeting to order. While waiting for the Local Indian Education Committee (LIEC) to arrive, the Board discussed the proposed Johnson O'Malley specials budget as submitted to them by the LIEC. At 1:30 p.m. the Board recessed until the members of the LIEC arrived.

At 3:50 p.m. the Board reconvened after members of the LIEC arrived. The following people were present for this portion of the meeting: Anthony Ross, Marlin Tahdooahnippah, Lillian Tahdooahnippah, George L. Pink, Jr., June E. Pink, Barbara Ryan, Dennis Peterson,

Enclosure #6

IX. TERMS OF THE CONTRACT

It is also understood that any disapproval of any school district programs on the part of the SIEC will not invalidate the 1976-77 Johnson O'Malley subcontract, nor will it allow for the withdrawal of contracted dollars unless the school district violates the contract terms regarding basic education programs.

Following a review of the nine points, the Board felt that provisions for the CIEC to use the Peever gym, as previously agreed to, should be added to VI.

The Board discussed their role as Board members in regard to each other as well as the community.

ACTION NO. 1506 A motion was made by M. Leiseth and seconded by C. Wegleitner that the meeting be adjourned. Upon roll call vote being taken, the following voted in favor thereof: L. Hellwig, C. Wegleitner, M. Leiseth, W. Johnson, L. Lekness, D. Hanson, J. Wenschlag and M. Hannasch

and the following voted against: None

absent: A. Weinkauf

Whereupon the motion carried.

DATE 10/12/76

APPROVED

Cheryl A. Karst
Business Manager

SPECIAL SCHOOL BOARD PROCEEDINGS

September 25, 1976

The School Board of Sisseton School District No. 54-5 met in special session Saturday, September 25, 1976, at 1:00 p.m. in the boardroom at C.K. Tollehaug Middle School for the purpose of finalizing a contract with the Sisseton Indian Education Committee for Johnson O'Malley funds.

Members in attendance were: L. Hellwig, C. Wegleitner, M. Hannasch, M. Leiseth, A. Weinkauf and D. Hanson

Absent: W. Johnson, L. Lekness and J. Wenschlag

Others in attendance were: M. J. Rabenberg, Cheryl Karst, Celine Buckanaga, Gloria Thvedt and Delores Ginsbach

Pres. Hellwig called the meeting to order.

At 2:45, Mrs. Buckanaga informed the Board that she was unable to locate a quorum of her Board so the meeting would have to be postponed.

ACTION NO. 1507 A motion was made by M. Leiseth and seconded by M. Hannasch that the meeting be adjourned. Upon roll call vote being taken, the following voted in favor thereof: L. Hellwig, C. Wegleitner, M. Hannasch, M. Leiseth, A. Weinkauf and D. Hanson

and the following voted against: None

absent: W. Johnson, L. Lekness and J. Wenschlag

Whereupon the motion carried.

DATE 11/12/76

APPROVED

Cheryl A. Karst
Business Manager

SPECIAL SCHOOL BOARD PROCEEDINGS

October 5, 1976

The School Board of Sisseton School District No. 54-5 met in special session Tuesday, October 5, 1976, at 7:30 p.m. in the boardroom at O. K. Tollehaug Middle School.

Members in attendance were: L. Hellwig, D. Hanson, J. Wenschlag, A. Weinkauf, M. Leiseth, C. Wegleitner and L. Lekness

Absent: M. Hannasch and W. Johnson

Others in attendance were: Cheryl Karst, M. J. Rabenberg, Dr. Marvin Scholten, Gloria Thvedt, Delores Ginsbach, Dorothy Donner, Celine Buckanaga, Marilyn Ross, Virginia Max, Katherine Edwards, Dolly Fisher, Karen Janisch, Sylvester Goodteacher, Phil Dorsch, Anthony Ross, Fern Mathias and Francis Weilan

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

MAY 10 1978

Honorable Michael T. Blouin
Chairman, Advisory Study Group
 on Indian Education
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

As you requested in your letter of March 17, 1978, the Bureau of Indian Affairs is pleased to provide you with the information needed to complete the Advisory Study Group on Indian Education's activity report. Our completed response is contained in the two attached documents.

Presently, I am giving much thought as to how I should proceed to modify the Bureau testimony of two months past. With the improved communication flow between Deputy Assistant Secretary Lavis and your staff, I anticipate that whatever the Bureau's position, our rationale will have been thoroughly discussed by our staffs prior to the next hearing date.

Sincerely,

Forrest J. Gerard
Assistant Secretary--Indian Affairs

Enclosure

TABLE 12

DESCRIPTIVE STATISTICS OF CURRENT EDUCATION EXPENDITURES PER PUPIL FOR K-12, HIGH SCHOOL AND ELEMENTARY BOARDING SCHOOLS FOR FISCAL YEAR 1974 TO FISCAL YEAR 1977

	Mean	Standard Deviation	Coefficient of Variation	Minimum	Maximum	Number of Schools
K-12 Schools						
1974	$	$		$	$	
1975	3,497	1,953	0.56	2,148	6,883	5
1976	2,374	1,266	0.53	1,331	4,876	6
1977	2,689	1,237	0.46	1,740	5,466	8
High Schools						
1974	$	$		$	$	
1975	5,082	1,165	0.23	3,545	7,266	14
1976	5,471	1,511	0.28	3,217	7,516	14
1977	5,767	2,874	0.50	2,696	13,632	13
Elementary Schools						
1974	$	$		$	$	
1975	3,394	1,452	0.43	1,250	8,625	52
1976	3,477	1,181	0.34	1,509	8,150	50
1977	3,537	1,564	0.44	787	7,891	49

Source: Based on data provided by the Bureau of Indian Affairs, Office of Indian Education Programs, Albuquerque, New Mexico.

Prepared by the Education Finance Center, Education Commission of the States, Denver, Colorado.

TABLE 13

DESCRIPTIVE STATISTICS OF CURRENT EDUCATION EXPENDITURES PER PUPIL BY PUPIL SIZE CATEGORIES FOR BOARDING SCHOOLS FOR FISCAL YEAR 1974 TO FISCAL YEAR 1977

Number of Students	Mean	Standard Deviation	Coefficient of Variation	Minimum	Maximum	Number of Schools
1974	$	$		$	$	
0-50						
51-100						
101-500						
501-1000						
Over-1000						
1975	$	$		$	$	
0-50	4,012	1,264	0.31	2,606	5,053	3
51-100	4,000	2,236	0.56	2,717	8,538	6
101-500	3,854	1,637	0.42	1,250	8,625	48
501-1000	3,147	951	0.30	2,090	5,644	14
Over-1000	---	---	----	---	---	--
1976	$	$		$	$	
0-50	4,827	872	0.18	4,005	5,961	4
51-100	3,318	350	0.11	2,993	3,689	3
101-500	3,943	1,681	0.43	1,509	8,150	45
501-1000	3,222	1,185	0.37	1,331	6,006	18
Over-1000	---	---	----	---	---	--
1977						
0-50	6,108	2,879	0.47	2,787	7,891	3
51-100	3,282	3,107	0.95	787	6,762	3
100-500	4,110	2,155	0.52	1,421	13,632	44
501-1000	3,155	1,085	0.34	1,740	6,528	18
Over-1000	2,128	---	----	2,091	4,257	2

Source: Based on data provided by the Bureau of Indian Affairs, Office of Indian Education Programs, Albuquerque, New Mexico.

Prepared by the Education Finance Center, Education Commission of the States, Denver, Colorado.

INFORMATION REQUESTS INVOLVING PERSONNEL

1. How many total employees are there in the BIA?
   How many employees are Indian?
   How many teachers are there in the BIA?
   How many of these teachers are Indian?
   How many Indian teacher aides are there?

Answer

1-a. As of February 28, 1978 - 18,316 employees

1-b. As of February 28, 1978 - 13,441 Indian employees

1-c. As of March 29, 1978 - 2,969 Teachers and 287 Instructors

1-d. 1,153 Indian teachers

1-e. 3,115 Indian teacher aides

2. Of BIA personnel growth over the past five years, what percentage of the new positions (or new hires to fill old positions) deal with P.L. 93-638 contracting concerns?

Answer

Approximately 11% of the new positions were for contracting and P.L. 93-638. In addition, present employees were assigned additional duties in connection with the implementation of 638 regulations.

3. What has been the growth (or decline) of educational personnel over the last five years?
   How many of these new positions have been created for classroom positions, i.e., teachers? Of the total number of employees in the Bureau assigned to an education classification, how many are in classroom positions?

Answer

3-a. During the past five years there has been an 8.4% decline in the Education employment. This is attributed to closing of some schools in Alaska and 93-638 contracting of several schools.

3-b. There have been 322 positions allocated for total Bureau Education utilization this year.

3-c. Of the total employees assigned to an education classification, 6,445 are in classroom positions..

Table I F.Y. 1977

Area Agency		1 5-18 Enumerated	2 Federal 5-18	3 Over 18	4 Public 5-18	5 Over 18
Portland		12353	344	38	11195	85
Colville	Wash	1603	37	11	1337	
Ft. Hall	Ida	1012	40	10	848	
No. Idaho	"	1046	75		949	31
Spokane	Wash	688	6		662	10
Umatilla	Or.	296	7	1	277	1
Warm Springs	Or.	1820	37	3	1752	3
West. Wash.	Wash	3803	82		3505	
Yakima	"	2085	60	13	1863	40

1/ In addition, dormitory facilities are provided ____ children who atte

2/ Includes ____ children who live in Federal dormitories and attend

3/ Children recorded at their own Agency, but who reside off the

4/ Estimated by Anadarko Area Office.

5/ Estimated by Juneau Area Office.

6/ Estimated by Muskogee Area Office.

Summary

Aberdeen	24986	11077	273	10128	463
Albuquerque	13875	2396	84	9662	215
Anadarko	8557	1162	22	6775	331
Billings	12646	864	124	9805	212
Eastern	3795	2521	71	990	38
Juneau	24795	3019	88	21574	115
Minneapolis	12646	864	124	9808	212
Muskogee	25232	869	153	23953	
Navajo	57691	18049	549	30701	784
Phoenix	21910	4869	109	14494	296
Portland	12353	344	35	11195	85
Total	219,212	45,542	1,458	149,326	2,596

Mission & Other Private 5-18	Mission & Other Private Over 18	Special & Institutional 5-18	Special & Institutional Over 18	Colleges & Universities 5-18	Colleges & Universities Over 18	Vocational 5-18	Vocational Over 18
437		115	1	29	883		318
160		1	1		132		65
		54			65		
					84		13
		10			23	1	15
		7		2	52	1	1
		3			60	1	20
216					265	1	141
61		40		27	205		63

ttend public schools
ed public schools
i reservation

Mission & Other Private 5-18	Mission & Other Private Over 18	Special & Institutional 5-18	Special & Institutional Over 18	Colleges & Universities 5-18	Colleges & Universities Over 18	Vocational 5-18	Vocational Over 18
2199	87	74	223	81	1906	80	276
952	1	75	7	38	604	7	142
54	324	60	187		563		413
1025	8	178	10		1367		191
21		1		1	91		35
142	22	70	9	1	47	1	8
1025	8	178	10		1367		191
					3069		501
2851	52	279	60	114	1246	35	288
1181	12	319	302	149	1116	8	274
437		115	1	29	883		318
9184	535	1,173	799	415	11056	241	2617

14	15	16	17	18	19	20	21
TOTAL All Others			TOTAL In School			Not Enrolled in Any School	No Info. Avail. 3/
5-18	Over 18		5-18	Over 18		5-18	5-18
581	1202		12120	1325		233	
161	198		1535	209		68	
54	65		942	75		70	
	94		1024	125		22	
10	38		678	48		10	
9	53		295	55		1	
3	80		1292	86		28	
216	406		3803	406			
128	268		2051	321		34	
2434	2592		23639	3328		616	731
1077	754		13135	993		363	337
114	1487		8051	1840		502	4
1203	1576		11875	1912		477	294
23	126		3534	235		153	208
189	86		24582	289		213	
1203	1576		11875	1912		477	294
	3570		24822	3723			501
3279	1646		52029	2979		4695	967
1657	1714		21020	2119		612	278
581	1202		12120	1325		233	
10,913	15,707		205,784	19,061		7891	5,540

Table I F.Y. 1977

		1	2	3	4	5
		5-18	Federal		Public	
		Enumerated	5-18	Over 18	5-18	Over 18
Billings		12646	864	124	9808	212
Blackfeet	Mont	2501	240	[illegible]	2574	75
Crow	"	2097	80	15	1411	37
Flathead	"	1339	19	26	1240	21
Ft. Peck	"	913	30	10	701	68
Ft. Belknap	"	1732	40	16	1610	4
No. Cheyenne	"	1217	299		502	
Rocky Boy's	"	808	26	3	645	2
Wind River	Wyo	1459	130	34	1075	
Minneapolis		13321	372	7	10246	57
Great Lakes	Wisc	4226	14	5	4658	47
Minnesota	Minn	7641	254		5038	6
Red Lake	"	1195	48		374	
Sac + Fox	Iowa	239	56	2	176	4
Muskogee		25323	869	153	23953	
5 Civil Tribes + Osage	Ok	25323	869	153	23953	
Navajo		57691	18049	549	30701	794
Arizona	Az	31028	11288	340	14708	378
New Mexico	NM	24480	5995	199	14880	387
Navajo		24002	5751	199	14646	373
Ramah		478	244		234	14
Utah	Utah	2183	766	10	1113	19
Phoenix		21910	4369	109	14494	296
Colorado River	Az	1446	54	3	1277	2
Ft. Apache	"	3434	657	26	2034	16
Hopi	"	1799	1340		290	
Nevada	Nev	3426	283	33	2792	262
Papago	Az	3839	1092		2595	
Pima	"	3642	771		2432	
Salt River	"	1157	367	12	637	3
San Carlos	"	3161	115	26	1550	7
Truxton Canyon	"	580	163	0	403	0
Uintah + Ouray	Utah	426	28	9	344	7

Mission & Other Private		Special & Institutional		Colleges & Universities		Vocational	
5-18	Over 18	5-18	Over 18	5-18	Over 18	5-18	Over 18
1025	5	175	10		1367		191
		24	6		396		
335	7	7			237		35
		6			77		48
78	1	4			158		39
54		37	9		168		40
408		8			115		32
					112		8
750		90			102		6
312	29	32		2	164	10	61
131		10					
31	29	16		2		3	
150					144	6	56
		6			20	1	5
					3069		501
					3069		501
2851	52	279	60	114	1246	35	288
1946	38	186	33	41	783	21	214
826	14	93	27	73	425	13	65
826	14	93	27	73	405	13	43
					20		22
109					38	1	9
1181	12	319	302	149	1116	8	284
5		1		4	69	1	35
329	9	40	0	140	60	0	46
34		13	5	5	202	7	85
		45			158		104
135		17	6		218		2
195		106	290		137		
31		3			56		
432	3	64	0	0	114	0	13
0	0	10	0	0	69	0	0
		20	1		33		

14	15	16	17	18	19	20	21	
TOTAL All Others			TOTAL In School			Not Enroll in Any Sch.	No Info. Avail. 1/	
5-18	Over 18		5-18	Over 18		5-18	5-18	
1203	1576		11875	1912		477	294	1
24	397		2838	472		58	5	2
344	281		1835	333		140	102	3
6	125		1265	172		24		4
82	159		813	267		30	70	5
91	219		1741	239		100	91	6
114	147		1217	147				7
	112		721	122		61	26	8
240	108		1445	142		14		9
								10
								11
356	254		10474	318		27	2320	12
141			4213	52		4	9	13
52	29		5344	25		6	2311	14
156	200		1178	200		17		15
7	25		237	31				16
								17
								18
	3570		24822	3723			501	19
0	3570		24822	3723			501	20
								21
								22
3229	1646		52029	2979		4695	967	23
2164	1068		28160	1786		2514	354	24
1005	531		21880	1117		1987	613	25
1005	489		21402	1061		1987	613	26
	42		478	56				27
110	47		1989	76		194		28
								29
								30
1657	1714		21020	2119		612	278	31
11	104		1342	109		87	17	32
509	116		3200	156		226	8	33
79	292		1799	292				34
45	262		3120	557		131	175	35
152	226		3839	226				36
301	427		3554	427		35	53	37
34	56		1038	71		94	25	38
496	129		2161	162		0	0	39
10	69		575	69		5	0	40
20	34		382	50		34		

[illegible]

Table I

Area Agency		1 5-18 Enumerated	2 Federal 5-18	3 Over 18	4 Public 5-18	5 Over 18
Grand Total		229212	45542	1458	149326	2596
Aberdeen		24986	11072	273	10128	463
Cheyenne River	SD	2728	1491	51	1014	
Crow Creek	"	784	369	9	49	
Flandreau	"	158	13		143	17
Ft. Berthold	"	1620	607		911	
Ft. Totten	ND	986	529		390	
Lower Brule	SD	420	377	2	20	5
Pine Ridge	"	4172	2642	110	605	25
Rosebud	"	2803	118		2090	361
Sisseton	"	1213	67	10	1092	
Standing Rock	ND	1853	933	8	832	15
Turtle Mountain	"	6204	3685	75	1531	35
Winnebago	Neb	1442	95		1033	
Yankton	SD	603	148	8	409	5
Albuquerque		13835	2396	24	9662	205
Jicarilla	NM	854	20		749	5
Mescalero	"	885	45	9	640	11
No. Pueblos	"	1690	503		1029	[illegible]
So. Pueblos	"	7533	1696	14	5025	110
Southern Ute	Col	277	3		250	
Ute Mountain	"	499	98		359	
Zuni	NM	2094	31	1	1560	25
Anadarko		8557	1162	22	6775	331
Anadarko	Ok	3532	313		2832	
Concho [1]	"	1382	301	4	843	69
Horton	Ks	1191			1191	180
Pawnee	Ok	426	176	18	250	36
Shawnee	"	2026	372		1654	46
Eastern		3795	2521	71	990	38
Cherokee	NC	1903	1225	34	544	31
Choctaw	Miss	1494	1218	35	189	5
Seminole	Fla	348	28	2	257	2
Juneau	Ak	24795	3019	88	21374	115

Mission and Other Private		Special and Institutional		Colleges and Universities		Vocational	
5-18	Over 18	5-18	Over 18	5-18	Over 18	5-18	Over 1
9184	535	1173	799	415	11056	171	2617
2199	87	74	223	81	1906	80	376
51	17	8	5		137		20
326	11	28			50		9
35					292		65
67					45		5
				2	6		3
434					503		54
423	29		183		137		
		2			125		6
80					172		38
250	30	34	35	80	246	80	110
164		2			173		66
19							
957	1	75	7	38	604	7	112
54		5		10	10	2	2
64		6	4		62		27
75		2	3		140		19
376		31		26	316	1 5	41
		5		2	19		14
		26			5		23
226	1				58		16
54	324	60	187		563		413
19	324	15	187		393		318
35		45			92		67
					78		28
21		1		1	91		39
					50		20
12		1		1	5		1
9					36		14
147	22	40	9	1	47	1	8

Total All Other 5-18	Total All Other Over 18		Total In School 5-18	Total In School Over 18		Not Enrolled in Any School 5-18	No Info. Available 5-18 [3]
10913	15007		205781	19061		2891	5540
2434	2592		23639	3328		616	231
59	179		2564	230		116	48
354	70		732	79		12	
			156	12		2	
35	357		1553	357		17	56
67	50		986	50			
1	9		408	16		12	
734	557		3986	492			186
473	349		2629	710		124	
2	131		1161	111			52
80	230		1845	253		8	
444	421		5660	531		167	377
166	239		1294	239		148	
19			575	13		16	12
1077	754		13135	993		263	337
[illegible]	12		840	17		14	
70	93		755	113		24	106
77	162		1609	226		26	55
478	351		7201	475		155	169
7	33		260	33		19	
26	28		483	28		16	
78	75		197	101		109	7
114	1482		8051	1840		502	4
34	1222		3184	1222		344	4
80	159		1224	232		158	
			1192	280			
			426	54			
	106		2026	152			
23	126		3534	235		153	108
0	70		1769	136		54	80
14	6		1421	46		73	
9	50		344	54		26	28
189	86		24582	289		213	

Enrollment by Grade
No. of Graduates

FY 1977

AREA	TOTAL ENROLL-MENT	B-K	1	2	3	4	5	6	7	8
GRAND TOTAL	42937	276- 7742	3558	4090	3402	3411	3418	3276	3147	279
BOARDING	28464	115- 3283	1878	2333	1869	1847	1900	1931	2045	198
DAY	14473	161- 4459	1680	1757	1533	1564	1518	1345	1102	101
Aberdeen	8798	31- 698	700	641	605	619	678	649	739	732
Boarding	3760	200	217	234	194	216	245	211	309	301
Day	5038	31- 498	483	407	411	403	433	438	430	431
Albuquerque	3079	218	286	315	204	228	221	162	113	53
Boarding	1270									
Day	1809	218	286	315	204	228	221	162	113	53
Anadarko - Bdg.	2486		14	19	30	35	43	52	61	2
Eastern	2623	238	231	197	166	209	218	248	239	228
Boarding	996	72	78	50	48	73	70	87	105	89
Day	1627	166	153	147	118	136	148	161	134	139
Juneau	3336	141	282	338	317	398	425	372	322	30
Boarding	377									
Day	2959	141	282	338	317	398	425	372	322	299
Muskogee - Bdg.	367		3	6	11	11	21	16	26	4
Navajo	16590	236- 1136	1745	2214	1741	1581	1545	1531	1379	
Boarding	15394	230-969	1523	1953	1517	1443	1451	1471	1353	120
Day	1196	167	222	261	224	138	94	60	26	119
Phoenix	5478	73- 311	298	360	328	330	267	246	265	36
Boarding	3634	13-42	44	71	69	69	70	94	188	28
Day	1844	269	254	289	259	261	197	152	77	8
Portland - Bdg	180									

8	Ung.	TOTAL ELEMENTARY	9	10	11	12	Ung.	TOTAL SECOND.	TOTAL: ELEM. & SECOND.	13	14	TOTAL P.G.
2797		30317	3075	3072	2500	1533		10180	40497			
1985		17314	2577	2660	2229	1373		8709	25790			2441
1018		13003	498	412	271	190		1471	14474			2441
732		6094	865	825	668	346		2704	8798			
201		2127	527	516	377	213		1633	3760			
491		3967	338	309	291	133		1071	5038			
57		1800	9		41	48		98	1898			1181
53		1800	9		41	48		89	89			1484
								9	1809			
20		327	247	283	242	127		899	1226			1260
228		1974	226	195	125	103		649	2623			
89		672	115	107	54	48		324	996			
139		1302	111	88	71	55		325	1627			
300		2895	127	133	99	73		442	3337			
			87	118	90	82		377	377			
299		2892	40	15	9	2		65	2957			
43		187	44	82	58	46		230	367			
1204		14303	758	681	491	357		2287	16590			
1197		13107	758	681	491	357		2287	15394			
4		1196							1196			
369		2787	764	821	713	396		2691	5478			
283		943	764	821	713	396		2691	3634			
86		1844							1844			
			39	52	62	27		180	180			

14	15	16	17	18	19	20	21
GRADUATES							
8	12	P.H.					

Enrollment by Grades
No. of Graduates

FY 1977

AREA		TOTAL ENROLL-MENT	K	1	2	3	4	5	6	7	8
Albuquerque		1809	218	286	345	204	228	221	162	113	53
San Ildefonso	NM	38		13	9	5	3	5	3		
San Juan	"	76	13	15	13	6	10	13	6		
Santa Clara	"	116	16	17	28	15	15	13	1	11	
Taos Pueblo	"	184	21	20	18	20	20	19	21	25	20
Tesuque	"	22		2	6	3	2	3	6		
Sky City Comm.	"	322	60	36	30	25	35	25	32	41	31
Isleta	"	169	15	30	20	21	35	29	19		
Jemez	"	127	13	24	21	14	12	23	17	1	
Laguna	"	427	79	64	59	50	54	54	45	22	
San Felipe	"	258		54	102	35	35	25	5		2
Zia	"	70	1	11	9	10	7	12	7	13	
Eastern		1627	166	153	147	118	136	148	161	134	139
Cherokee Central	NC	1340	135	116	115	82	105	105	123	106	128
Chitimacha	LA	49	4	2	2	5	6	7	9	6	8
Red Water	MS	90	7	13	9	12	4	11	20	12	
Standing Pine	MS	54	10	5	9	6	8	8	8		
Tucker	MS	40		9	7	6	9	9			
Ahfachkee	FL	54	8	8	5	7	4	8	1	10	3
Juneau	AK	2751	141	282	338	317	398	425	372	321 ~~322~~	299
Klukwan	"	13		2	1	1	1	3		4	1
Akiachak	"	135	32	12	10	14	14	16	19	13	5
Akiak	"	37		2	3	2	3	6	7	8	6
Alakanuk	"	113			5	21	27	21	17	10	12
Chefornak	"	59		6	9	8	9	7	9	5	6
Chevak	"	177	7	11	14	16	23	14	14	12 ~~33~~	14
Eek	"	47		3	6	4	9	5	5	12	3
Goodnews Bay	"	75		7	8	7	8	19	9	8	7
Grayling	"	51		6	6	3	5	12	4	7	8
Kasigluk	"	87	9	8	9	6	9	9	20	8	7
Kipnuk	"	103	1	9	10	4	13	12	16	19	19
Kotlik	"	92	9	4	12	12	15	10	7	7	11
Kwethluk	"	115		13	14	10	14	22	13	13	16
Kwigillingok	"	57			7	6	16	9	7	6	6

8	Ung	TOTAL ELEMENTARY	9	10	11	12	Ung	TOTAL SECOND.	TOTAL: ELEM. & SECONDARY	13	14	TOTAL P.H.
53		1800	9					9	1809			
		38							38			
		76							76			
		116							116			
20		184							184			
		22							22			
31		315	7					7	322			
		169							169			
		125	2					2	127			
		427							427			
2		258							258			
		70							70			
139		1702	111	88	21	55		325	1627			
128		1015	111	88	21	55		325	1340			
8		47							47			
		90							90			
		54							54			
		40							40			
3		54							54			
299		2893 ~~2894~~	40	15	7	2		65	2959			
1		13							13			
5		135							135			
6		37							37			
12		113							113			
6		59							59			
14		[illegible] 127	20	15	9	2		46	178			
3		47							47			
7		75							75			
8		51							51			
7		87							87			
19		103							103			
11		87	5					5	92			
16		115							115			
6		57							57			

14	15	16	17	18	19	20	21	
GRADUATES								
8	12	P.H.						
								1
								2
								3
								4
								5
								6
								7
								8
								9
								10
								11
								12
								13
								14
								15
								16
								17
								18
								19
								20
								21
								22
								23
								24
								25
								26
								27
								28
								29
								30
								31
								32
								33
								34
								35
								36
								37
								38
								39
								40

Enrollment by Grades
No. of Graduates

FY 1977

AREA		TOTAL ENROLL-MENT	K	1	2	3	4	5	6	7	
Navajo		1196	167	222	261	224	138	94	60	26	
Alamo	NM	65	30	35							
Bread Springs	NM	78	17	23	17	19	2				
Cottonwood	Az	322	48	16	81	71	25	24	40	13	
Jones Ranch	NM	52	15	9	11	10	7				
Ojo Encino	NM	58		13	31	14					
Beclabito	NM	55		13	15	13	14				
Cove	NM	119		29	3	12	18	24	20	13	
Red Rock	NM	108		24	38	16	15	15			
Chilchinbeto	AZ	132	23	25	35	28	20	1			
Red Lake	AZ	207	34	35	30	41	37	30			
Phoenix	Az	1844	269	254	289	259	261	197	152	72	8
Supai	"	37		5	6	8	8	6	4		
Cibecue	"	208	14	18	31	20	37	35	15	16	2
J.F. Kennedy	"	90	6	10	12	12	15	14	21		
Hopi	"	214	15	21	11	10	12	8	12	61	6
Hotevilla	"	120	17	16	22	14	21	12	18		
Moencopi	"	85	17	12	12	34	6	4			
Polacca	"	175	30	31	37	19	17	19	22		
Second Mesa	"	199	31	28	27	23	31	26	33		
Keams	"	67	11	5	14	18	11	8			
Santa Rosa Ranch	"	25	3	3	5	8	3	3			
Vaya Chin	"	59	8	11	22	12	6				
Casa Blanca	"	169	37	33	39	29	31				
Gila Crossing	"	181	41	29	27	26	32	26			
Salt River	"	215	37	32	24	26	34	26	27		

6		7	8		9			10	11	12		13
8	Ung	TOTAL ELEMENTARY	9	10	11	12	Ung	TOTAL SECOND	TOTAL: ELEM. & SECONDARY	13	14	TOTAL P.H.
4		1196							1196			
		65							65			
		78							78			
4		322							322			
		52							52			
		58							58			
		55							55			
		119							119			
		108							108			
		132							132			
		207							207			
86		1844							1844			
		37							37			
22		208							208			
		90							90			
64		214							214			
		120							120			
		85							85			
		175							175			
		199							199			
		67							67			
		25							25			
		59							57			
		169							169			
		181							181			
		215							215			

GRADUATES

8 12 P.M.

No. of Graduates

FY 1977

AREA		TOTAL ENROLL-MENT	B-K	1	2	3	4	5	6	7	8
TOTAL – Boarding		28464	1323	[illegible]	2333	1869	1847	1900	1931	2045	198
Aberdeen		3760	200	217	234	194	216	245	241	309	30
Standing Rock	ND	713	54	54	53	36	53	54	52	79	66
Wahpeton	ND	317		13	18	24	25	49	54	55	7
Chey-Eagle Butte	SD	1017	50	65	85	64	61	68	60	98	7
Flandreau	SD	650									
Oglala Comm.	SD	1063	96	85	78	70	77	74	45	79	8
Albuquerque		1270									
Albuquerque	NM	–									
I.A.I.A.	NM	283									
S.I.P.I.	NM	987									
Anadarko		2486		13	19	30	35	43	52	64	70
Chilocco	OK	428									
Concho	OK	324		13	19	30	35	43	52	64	76
Ft. Sill	OK	236									
Riverside	OK	236									
Haskell	KS	1260									
Eastern		996	72	78	50	48	73	70	87	105	57
Bogue Chitto	MS	145	23	19	15	11	15	20	23	18	1
Conehatta	MS	129	11	20	11	9	18	11	15	17	15
Choctaw Central	MS	722	38	39	24	28	40	39	47	68	23
Juneau		372									
Mt. Edgecumbe	AK	372									
Muskogee		367		3	6	11	11	21	16	26	43
Seneca	OK	137		3	6	11	11	21	16	26	43
Sequoyah	OK	230									
Navajo		15394	230-969	1523	1953	1517	1473	1451	1471	1353	119
Chinle AT MANY FARMS	AZ	706	26-0	21	32	43	62	125	122	130	145
Crystal	NM	90		8	26	15	17	11	13		
Dennehotso	AZ	214		30	89	39	30	25	1		
Dilcon	AZ	601	20	55	83	52	66	66	98	88	7
Greasewood	AZ	343	1	26	31	31	44	46	57	61	46
Hunter's Point	AZ	156		25	50	29	24	28			
Haibeto Primary	AZ										

8	Ung	TOTAL ELEMENTARY	9	10	11	12	Ung	TOTAL SECOND	TOTAL ELEM. & SECOND	13	14	TOTAL P.H.
985		17314	2577	2660	2129	1343		8709	26023			2441
301		2127	527	546	377	243		1633	3760			
66		501	64	74	45	29		212	713			
77		317							317			
74		627	121	110	88	71		390	1017			
			188	210	164	88		650	650			
80		682	184	122	80	75		381	1063			
					41	48		89	89			1151
					41	48		89	89			199
												987
70		226	247	283	243	127		900	1226			1260
			142	138	106	47		429	428			
70		326							326			
			53	21	74	38		236	236			
			52	74	63	47		236	236			
												1260
89		672	115	107	54	48		324	996			
1		145							145			
15		129							129			
73		398	115	107	54	48		324	722			
1		1	87	118	90	81		376	377			
1		1	87	118	90	81		376	377			
43		137	44	82	58	46		230	367			
43		137							137			
			44	82	58	46		230	230			
1199		13108	757	681	491	357		2286	15394			
145		206							206			
		90							90			
		214							214			
73		601							601			
46		343							343			
		156							156			

14	15	16	17	18	19	20	21	
GRADUATES								
8	12	P.H.						
								1
								2
								3
								4
								5
								6
								7
								8
								9
								10
								11
								12
								13
								14
								15
								16
								17
								18
								19
								20
								21
								22
								23
								24
								25
								26
								27
								28
								29
								30
								31
								32
								33
								34
								35
								36
								37
								38
								39
								40

Enrollment by Grade
No. of Graduates

FY 1977.

3 AREA		TOTAL ENROLL-MENT	B-K	1	2	3	4	5	6	7	8
Kaibeto Elem.	AZ	604	67	82	70	64	70	42	58	59	7
Kayenta	.	625	38-22	61	65	81	77	68	91	63	57
Kinlichee	.	184		19	31	25	22	29	16	21	2
Low Mountain	.	144	44	27	38	35					
Leupp	.	427	24	43	80	33	52	45	44	53	5
Lukachukai	.	394	40	50	58	70	53	39	81		
~~Many Farms Jr. High~~	.										
Many Farms H.S.	.	674									
Nazlini	.	121	13	19	36	16	21	16			
Pine Springs	.	50		44	20	19					
Pinon	.	307	35	71	116	85					
Rocky Ridge	.	146	47	29	36	34					
Seba Dal Kai	.	147	32	43	44	21	7				
Shonto	.	1009	44-45	91	176	85	137	79	48	28	2
Teecnospos	.	689	40	87	48	89	65	96	105	76	8
Toyei	.	571	43	53	82	41	56	81	70	62	[illegible]
Tuba City Elem.	.	892	73	60	76	91	91	148	110	135	11
Tuba City H.S.	.	572									
Wide Ruins	.	174	33	30	38	29	26	18			
Baca	NM	50	27	23							
Canoncito	.	114		39	41	15	19				
Chichiltah	.	108	19	41	24	24					
Chuska	.	352	20	63	70	48	44	42	50	41	4
Crownpoint	.	484		17	40	43	54	85	85	83	7
Dlo'ay Azhi	.	111		11	29	24	20	27			
Dzilth Na O Dith Hle	.	356	21	28	47	24	51	45	53	46	3
Lake Valley	.	134	15	20	15	15	15	17	14	17	
Mariano Lake	.	102	24	41	23	14					
Nenahnezad	.	402		70	33	42	53	57	83	60	
Pueblo Pintado	.	185	25	30	58	38	32	2			
Sanostee	.	413	38	35	44	29	40	44	45	108	6
Shiprock J. High	.	164								13	6
Standing Rock	.	54		22	27	5					
Toadlena	.	205	10-24	29	33	35	26	21	27		
Tohatchi	.	328		21	42	36	33	36	41	73	4
Torreon	.	98	45	22	24	7					
Wingate Elem.	.	672		29	64	47	78	94	120	129	10
Wingate H.S.	.	277									
Aneth	UT	311	28	41	33	44	58	45	42	7	
Navajo Mtn.	UT	39	15+15		9						

6		7	8		9			10	11	12		13
8	Ung	TOTAL ELEMENTARY	9	10	11	12	Ung	TOTAL SECOND	TOTAL ELEM & SECOND	13	14	TOTAL P.H.
70		604							604			
57		625							625			
21		184							184			
		141							141			
56		427							427			
		391							391			
			215	204	144	111		674	674			
		121							121			
		50							50			
		307							307			
		146							146			
		147							147			
26		946	18	35	9			62	1008			
87		689							689			
83		571							571			
118		892							892			
			152	169	148	103		572	572			
		174							174			
		50							50			
		114							114			
		108							108			
13		351	1					1	352			
73		480	4					4	484			
		111							111			
39		356							356			
8		136							136			
		102							102			
4		402							402			
		185							185			
60		413							413			
62		75	89					89	164			
		54							54			
		205							205			
46		328							328			
		98							98			
107		672							672			
			226	269	189	143		877	877			
6		304	2	4	1			7	311			
		39							39			

14	15	16	17	18	19	20	21	
GRADUATES								
8	12	P.H.						
								1
								2
								3
								4
								5
								6
								7
								8
								9
								10
								11
								12
								13
								14
								15
								16
								17
								18
								19
								20
								21
								22
								23
								24
								25
								26
								27
								28
								29
								30
								31
								32
								33
								34
								35
								36
								37
								38
								39
								40

Enrollment by Grades
No. of Graduates

FY 1977

AREA		TOTAL ENROLL-MENT	B-K	1	2	3	4	5	6	7	8
Phoenix		3634	13-42	44	71	69	69	70	91	188	283
Intermountain	UT	974									
Keams Canyon	AZ	214	18-0	18	24	18	20	29	20	30	42
Phoenix	AZ	714								15	46
Santa Rosa	AZ	504	42	26	47	51	49	44	74	89	80
Theodore Roosevelt	AZ	164								54	11
Stewart	NV	477									
Sherman H. S.	CA	587									
Portland - Chemawa	OR	180									
TOTAL - Day		14473	[illegible]	1680	1757	1533	1564	1519	1345	1101	10
Aberdeen		5038	33-449	483	407	411	403	453	438	430	42
Bridger	SD	29		6	4	6	3	8	2		
Cherry Creek	"	98	8	11	11	9	18	12	6	13	1
Promise	"	17		4	2	2	4	1	4		
Red Scaffold	"	49		8	2	6	5	7	8	6	
Swiftbird	"	36		6	6	9	6	5	4		
White horse	"	51		5	6	4	7	6	10	4	
Twin Buttes	ND	80	15	7	7	9	6	8	9	11	
White Shield	ND	190	13	10	10	11	9	18	14	20	1
Ft. Thompson	SD	212	39	29	38	32	34	27	18		
Lower Brule	"	206	21	23	16	17	13	15	13	10	2
American Horse	"	167	22	23	15	18	16	12	17	20	2
Little Wound	"	483	47	58	41	34	34	32	22	31	5
~~Loneman~~	"										
Manderson	"	234	31	18	21	32	29	26	28	20	2
Porcupine	"	184	35	21	16	12	20	14	27	16	2
Crazy Horse	"	450	43	40	40	32	28	47	33	34	4
Big Coulee	"	37	33-4								
Enemy Swim	"	23	1			1	4	1		3	
Bull Head	"	98	14	16	6	12	6	10	13	14	
Little Eagle	"	109	11	11	13	10	15	14	9	14	1
Ft Totten Comm.	ND	458	40	35	39	27	28	38	49	60	3
Dunseith	ND	123	18	21	15	16	15	22	16		
Turtle Mtn. Comm.	ND	1699	136	131	99	112	103	110	136	154	13

	8	Ung.	TOTAL ELEMENTARY	9	10	11	12	Ung.	TOTAL SECOND.	TOTAL: ELEM. & SECOND.	13	14	TOTAL P.H.
1	283		943	761	821	713	396		2691	3634			
				243	303	318	120		974	974			
0	42		214							214			
5	46		61	178	202	188	85		653	714			
2	85		504							504			
4	110		164							164			
				167	134	109	67		477	477			
				173	182	108	124		587	587			
				29	52	32	27		140	140			
1	1012		13003	498	412	371	190		1470	14473			
0	421		3967	338	309	291	133		1071	5038			
			29							29			
3	10		98							98			
			17							17			
6	7		49							49			
			36							36			
1	9		51							51			
1	8		80							80			
2	14		119	17	21	18	15		71	190			
			217							217			
2	25		153	11	12	19	11		53	206			
2	24		167							167			
1	53		352	55	32	23	21		131	483			
0	29		234							234			
6	23		184							184			
4	41		338	41	25	32	14		112	450			
			37							37			
3	3		13	4	2	1	3		10	23			
4	7		98							98			
4	12		109							109			
0	33		349	40	34	27	8		109	458			
			123							123			
4	133		1114	170	183	171	61		585	1699			

14	15	16	17	18	19	20	21	
GRADUATES								
8	12	P.H.						
								1
								2
								3
								4
								5
								6
								7
								8
								9
								10
								11
								12
								13
								14
								15
								16
								17
								18
								19
								20
								21
								22
								23
								24
								25
								26
								27
								28
								29
								30
								31
								32
								33
								34
								35
								36
								37
								38
								39
								40